SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 126

PIGEON RIVER IMPROVEMENT, SLIDE & BOOM COMPANY, APPELLANT,

vs.

CHARLES W. COX, LIMITED

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., OCTOBER 20, 1933

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1 United States District Court, District of Minnesota, Fifth Division.

Pigeon River Improvement, Slide & Boom Company, Plaintiff.

vs.

Charles W. Cox, Limited, Defendant.

Appearances:

Jenswold, Jenswold & Dahle, Duluth, Minnesota, Attorney for Plaintiff.

Fryberger, Fulton & Boyle, Duluth, Minnesota, Attorneys for Defendant.

Pleas Before the Honorable the Judges of the United States District Court, District of Minnesota.

Be It Remembered That on the 5th day of September, A. D., 1930, there was filed in the office of the Clerk of the above named court, petition and order for Removal from the District Court of the County of Cook, Minnesota, which are in words and figures following, to-wit:

2 Petition for Removal to United States District Court.

District Court
Eleventh Judicial District

State of Minnesota,
County of Cook.

Pigeon River Improvement, Slide and Boom Company, Plaintiff,

vs.

Charles W. Cox, Limited, Defendant.

To the Honorable: The Judges of the District Court of Cook County, Minnesota:

Your petitioner, Charles W. Cox, Limited, the defendant in the above entitled action, respectfully alleges and shows to the Court:

First: That said action was commenced by the plaintiff against the defendant in the District Court of Cook County, Minnesota, by an alleged attachment in Pigeon River of certain forest products belonging to said defendant and by service of the summons upon said defendant in the Providence of Ontario, Canada, on August 11th, 1932.

Second: That in its complaint in said action, plaintiff seeks to recover from said defendant the sum of $8,199.36, as tolls for the alleged use of certain improvements in said Pigeon River in the driving, sluicing and floating of pulpwood down said Pigeon River during the years 1928, 1929 and 1930.

Third: That said defendant denies liability to plaintiff on account of the matters and things set forth in plaintiff's said complaint and a controversy exists which is wholly of a civil nature and exceeds the sum of $3,999.00 exclusive of interest and costs.

3 Fourth: That the plaintiff in said action is now and was at the time of the commencement of said action a corporation organized and existing under and by virtue of the laws of the State of Minnesota and that said plaintiff is a citizen and resident of said State of Minnesota.

Fifth: That the defendant is now and at all times mentioned herein has been a corporation duly organized and existing under and by virtue of the laws of the Providence of Ontario, Canada, and now is and was at the time of the commencement of this action and at the time of the accrual of the alleged cause of action herein a citizen and resident of the Province of Ontario in the Dominion of Canada.

Sixth: That the matter in controversy between plaintiff and defendant herein arises under the constitution and laws of the United States of America and the so-called Webster-Ashburton Treaty entered into between the United States of America and Great Britain in the year 1842, establishing the international boundary between the United States and Canada and providing, among other things, that said Pigeon River shall be free and open to the use of the citizens and subjects of both said countries; that your petitioner is informed and believes that plaintiff has no authority to collect tolls for the use of improvements on said river from the United States of America or Great Britain or the Dominion of Canada, or at all, excepting such authority as may be granted by the laws of the State of Minnesota, under which said plaintiff is organized, to-wit: Title 1 Chapter 34, General Statutes of Minnesota for the year 1894; that the plaintiff claims that it has a

right to collect tolls on Pigeon River under the authority granted to it under said laws of the State of Minnesota and the defendant denies that plaintiff has any such right and claims that it would be a violation of the provisions of said Webster-Ashburton Treaty to exact tolls in the manner aforesaid.

4 Seventh: That the time which is allowed to the defendant by the laws of the State of Minnesota and the rules of the above named Court to answer or otherwise plead to the complaint in said action has not expired and will not expire until September 2nd, 1930.

Eighth: That your petitioner makes and files herewith an undertaking as provided by statute conditioned that it will, within thirty days, file in the United States District Court for the District of Minnesota, Fifth Division, a transcript of the record in said action and for the payment of all costs which may be awarded if said court shall hold that said action was wrongfully or improperly removed thereto.

Wherefore your petitioner prays that this court proceed no further herein, except to make an order as required by law, removing said cause to the District Court of the United States for the District of Minnesota, Fifth Division, and to accept and approve the undertaking presented herewith and to direct a transcript of the record herein to be made for said District Court of the United States as provided by law.

CHARLES W. COX, LIMITED,
By Charles W. Cox, President.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant, 712-719 Lonsdale Building, Duluth, Minnesota.

State of Minnesota,
County of St. Louis—ss.

Charles W. Cox, being duly sworn says that he is the president of Charles W. Cox, Limited, the defendant in the above entitled action; that he has read the foregoing petition and knows the contents thereof and that the same is true of his own knowledge, except as to those matters therein stated on information and belief and as to those matters he believes it to be true.

CHARLES W. COX.

Subscribed and sworn to before me this 29th day of August, 1932.

(Notarial Seal) E. L. BOYLE,
Notary Public, St. Louis County, Minn.

My Commission expires Aug. 10, 1937.

5 (Order of Removal.)

District Court
Eleventh Judicial District.

State of Minnesota,
County of Cook.

Pigeon River Improvement, Slide and Boom Company, Plaintiff.

vs.

Charles W. Cox, Limited, Defendant.

On August 29th, 1932, the above entitled action came on for hearing before the above named court, upon the petition of the defendant for removal of said action to the District Court of the United States for the District of Minnesota, Fifth Division, and the court having inspected the records and files herein and having heard the statements of counsel and being fully advised in the premises, finds:

That said action is of a civil nature and involves an amount exceeding the sum of $3,000.00, exclusive of interest and costs, and is of a nature of which the District Court of the United States had jurisdiction.

That plaintiff therein is a citizen and resident of the State of Minnesota and the defendant is a citizen and resident of the Providence of Ontario, Canada, and that matter in controversy arises under the constitution and laws of the United States and treaties made under their authority.

That the defendant's petition for removal was presented before the expiration of the time allowed by the laws of the State of Minnesota and the rules of this court for the defendant to appear and answer or otherwise plead herein.

6 That the petition and undertaking, attached hereto and filed herewith, are in due form; that said undertaking is sufficient in amount; that the surety thereon is good for the amount thereof and that written notice of such petition and undertaking has been given to adverse party prior to the filing of the same.

It Is Therefore Ordered That said undertaking be and the same hereby is accepted and approved; that the petition for removal be and the same is hereby granted, and the court proceed no further in this cause but that the same stand removed to the District Court of the United States for the District of Minnesota, Fifth Division, and that the clerk of this court be and said clerk is directed, upon payment of legal fees therefor, to make and certify to the clerk of said United

States District Court, a transcript of the records and proceedings herein.

By the Court:

BERT FESLER,
Judge.

August 29th, 1930.

Endorsed filed in my office this 30th day of August, 1930, Matt Johnson, Clerk of District Court, Cook County, Minn.

Endorsed: Filed September 5. 1930, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

(Recital as to Bond on Removal.)

That on the same day, to-wit: September 5, 1930, there was filed in the office, and accompanying the above petition and order, a due and proper undertaking in the sum of Five hundred dollars ($500.00), with Maryland Casualty Company, a corporation organized under the laws of the State of Maryland, and authorized to [take] execute bonds and undertakings in the State of Minnesota, as surety, duly approved by the court.

---

7 That thereafter and on the 4th day of May, A. D. 1932, there was filed Amended complaint in said cause, which is in words and figures following:

8 Amended Complaint.

District Court of the United States, District of Minnesota, Fifth Division.

(Removed From District Court, Eleventh Judicial District, Cook County, Minnesota.)

Pigeon River Improvement, Slide & Boom Company, Plaintiff,

vs.

Charles W. Cox, Limited, Defendant.

Plaintiff, for its amended complaint herein, alleges:

I.

As a first cause of action herein:

1) That plaintiff is and ever since September 3, 1898 it has been a corporation, thereunto duly organized, created and existing under and by virtue of the laws of the State of Minnesota, including Title I of Chapter 34, General Statutes of Minnesota for the year 1894, and particularly Chapter 221, General Laws of Minnesota for the year 1889, and acts amendatory thereof and supplemental thereto, and as such was at all times and is empowered to construct, maintain,

operate and manage dams, sluices, flumes, slides, locks, reservoirs, bulkheads, booms and other structures useful or expedient in properly improving, developing and using the water supply for the purpose of handling, floating or navigating logs, ties, poles, posts, timber and wood of every description upon, over and in that part of the stream commonly known as Pigeon River, bordering or lying within the boundaries of Cook County, Minnesota, and its tributaries, as well as clearing, straightening and improving the channel of said stream, and to charge, receive and collect tolls and compensation for the use of said improvements and property in running, driving and handling said timber products, and to contract with other companies for the improvement, maintenance, operation and use of such other improvements upon Pigeon River and its tributaries in Canada, as may be expedient, and to do all acts and transact all business authorized by law connected with or incidental to the construction, ownership, maintenance and operation of an improvement, slide and boom company, and the properties connected therewith.

2) That defendant is and at all the times herein stated it was a corporation thereunto duly organized, created and existing under and by virtue of a Charter from and the laws of the Province of Ontario and the Dominion of Canada.

3) That said Pigeon River has its source and headwaters in North Fowl, South Fowl and Royal Lakes in said Cook County, and flows along the international boundary between the United States and Canada a distance of upwards of 40 miles to Pigeon Bay upon Lake Superior, and at all times has had and now has tributary thereto a considerable growth and supply of merchantable timber, both within said Cook County and the Province of Ontario. That the international boundary between the United States and Canada traverses said river and said North Fowl and South Fowl Lakes, and lies approximately midway between ~~the banks~~ thereof. That said river prior to plaintiff's improvement thereof, as hereinafter alleged, was at all times incapable of use for the driving, handling and floating of logs, pulpwood and timber of other sorts thereon.

4) That at the time of plaintiff's incorporation no other corporation had been organized for the improvement of the portion of Pigeon River within the State of Minnesota for the floating, driving and handling of logs thereon, nor had any company so organized, taken prior possession of said river and made improvements of such character thereon. That upon plaintiff's incorporation, it took prior possession of the portion of said Pigeon River within

the State of Minnesota and improved said river by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, booms, [side], rolling, sluicing and flooding dams upon the American side of the international boundary therein, and at the same time Arrow River and Tributaries Boom & Slide Company, a corporation thereunto duly organized, created and existing under and pursuant to charter and laws of the Dominion of Canada and Province of Ontario, for purposes and with powers similar to the purposes of organization and powers of plaintiff, but limited to the portion of Pigeon River and its tributaries within the Dominion of Canada, pursuant to agreement with plaintiff, similarly improved the portion of said Pigeon River within the Dominion of Canada, so that the improvements so made and constructed by each company constituted complements the one of the other, and the whole of said improvements rendered the driving of logs thereon reasonably practicable and certain, and said improvements have at all times thereafter been kept and maintained in and upon said river, and plaintiff has at all times since, including the year 1930, kept its said improvements in repair and has so operated its works thereon as to render the driving of logs upon said Pigeon River reasonably practicable and certain, and intends and expects so to continue.

5) That a true and correct map and survey of said Pigeon River and of the land on either side immediately adjacent thereto, prepared by the International Boundary Commission, consisting of nine sheets marked Exhibits A to I, inclusive, and on file herein, is by reference thereto made a part hereof as fully as though herein pleaded by exhibit. That Fort Charlotte which was at all times the northerly terminus of Grand Portage Trail, which [trial] extended from Grand Portage overland to said Fort Charlotte, which Fort Charlotte was the only point on said river reached and
11 touched by said [trial], was located at a point on said river above Partridge Falls, which point is indicated on said Exhibit E by the words "Fort Charlotte" designating the same. That all of plaintiff's and of said Arrow Company's said improvements to said river were located at all times below said Fort Charlotte, with the sole exception of a reservoir dam at the south end of South Fowl Lake. That a number of plaintiff's said structures and improvements are indicated upon said map, including said dam at South Fowl Lake.

5) That in the Spring of the year 1928 defendant was the owner of about 5320 single cords of pulpwood and about 63 railway ties, which it put into said Pigeon River at the point

where Arrow River empties therein, all of which it then drove, sluiced and floated from said point down and upon said Pigeon River to its mouth at said Pigeon Bay, and in so doing made use of the aforesaid improvements to said river constructed and maintained by plaintiff as aforesaid.

6) That the reasonable and uniform tolls therefor duly established and fixed by plaintiff for the use of plaintiff's said improvements to said river in so driving, sluicing and floating said pulpwood and ties is the sum of and at the rate of 30 cents per single cord of pulpwood and 3 cents per railway tie, which sums are respectively the reasonable values of such use of said improvements, and by reason thereof there became and is due to plaintiff therefor the sum of $1597.89, no part of which has been paid, although demand has been made therefor.

II.

As a second cause of action herein:

1) Plaintiff re-alleges the matter set forth in paragraphs numbered 1, 2, 3, 4 and 5 of its first cause of action herein as fully as though herein separately set forth and alleged.

2) That in the Spring of the year 1929 defendant was the owner of about 1852 single cords of pulpwood and about 53,765 railway ties, which it put into said Pigeon River at the point where Arrow River empties therein, all of which it then drove, sluiced, and floated from said point down and upon said Pigeon River to its mouth at said Pigeon Bay, and in so doing made use of the aforesaid improvements to said river constructed and maintained by plaintiff as aforesaid.

3) That the reasonable and uniform tolls therefor duly established and fixed by plaintiff for the use of plaintiff's said improvements to said river in so driving, sluicing and floating said pulpwood and ties is the sum of and at the rate of 30 cents per single cord of pulpwood and 3 cents per railway tie, which sums are respectively the reasonable values of such use of said improvements, and by reason thereof there became and is due to plaintiff therefor the sum of $2168.55, no part of which has been paid, although demand has been made therefor.

III.

As a third cause of action herein:

1) Plaintiff re-alleges the matter set forth in paragraphs 1, 2, 3, 4 and 5 of its first cause of action herein as fully as though herein separately set forth and alleged.

2) That in the Spring of the year 1930 defendant was the owner of about 8,000 single cords of pulpwood and about 80,000 railway ties, which it put into said Pigeon River at the

point where Arrow River empties therein, all of which it then drove, sluiced and floated from said point down and upon said Pigeon River to its mouth at said Pigeon Bay, and in so doing made use of the aforesaid improvements to said river constructed and maintained by plaintiff as aforesaid.

3) That the reasonable and uniform tolls therefor duly established and fixed by plaintiff for the use of plaintiff's said improvements to said river in so driving, sluicing and floating said pulpwood and ties is the sum of and at the rate of
13 30 cents per single cord of pulpwood and 3 cents per railway tie, which sums are respectively the reasonable values of such use of said improvements, and by reason thereof there became and is due to plaintiff therefor the sum of $4,800, no part of which has been paid, although demand has been made therefor.

Wherefore, plaintiff demands judgment against the defendant for the sum of $8,566.44, together with its costs and disbursements herein.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff,
Suite 703 Palladio Bldg., Duluth, Minn.

State of Minnesota,
County of St. Louis—ss.

John D. Jenswold, being first duly sworn upon oath, says that he is the Secretary of Pigeon River Improvement, Slide & Boom Company, the plaintiff in the foregoing within entitled action; that he has heard read the foregoing amended complaint; that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to such matters he believes it to be true to the best of his knowledge, information and belief.

JOHN D. JENSWOLD.

Subscribed and sworn to before me this 3rd day of May, 1932.

(Notarial Seal) C. A. DAHLE,
Notary Public, St. Louis County, Minn.

My Commission Expires Oct. 6, 1934.

Due and personal service of the within amended complaint is hereby admitted by receipt of copy thereof at Duluth, Minn., this 4 day of May, 1932.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant.

Endorsed: Filed May 4, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

13a

No. 2708

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

13b

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 36 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
~~United States Section~~
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

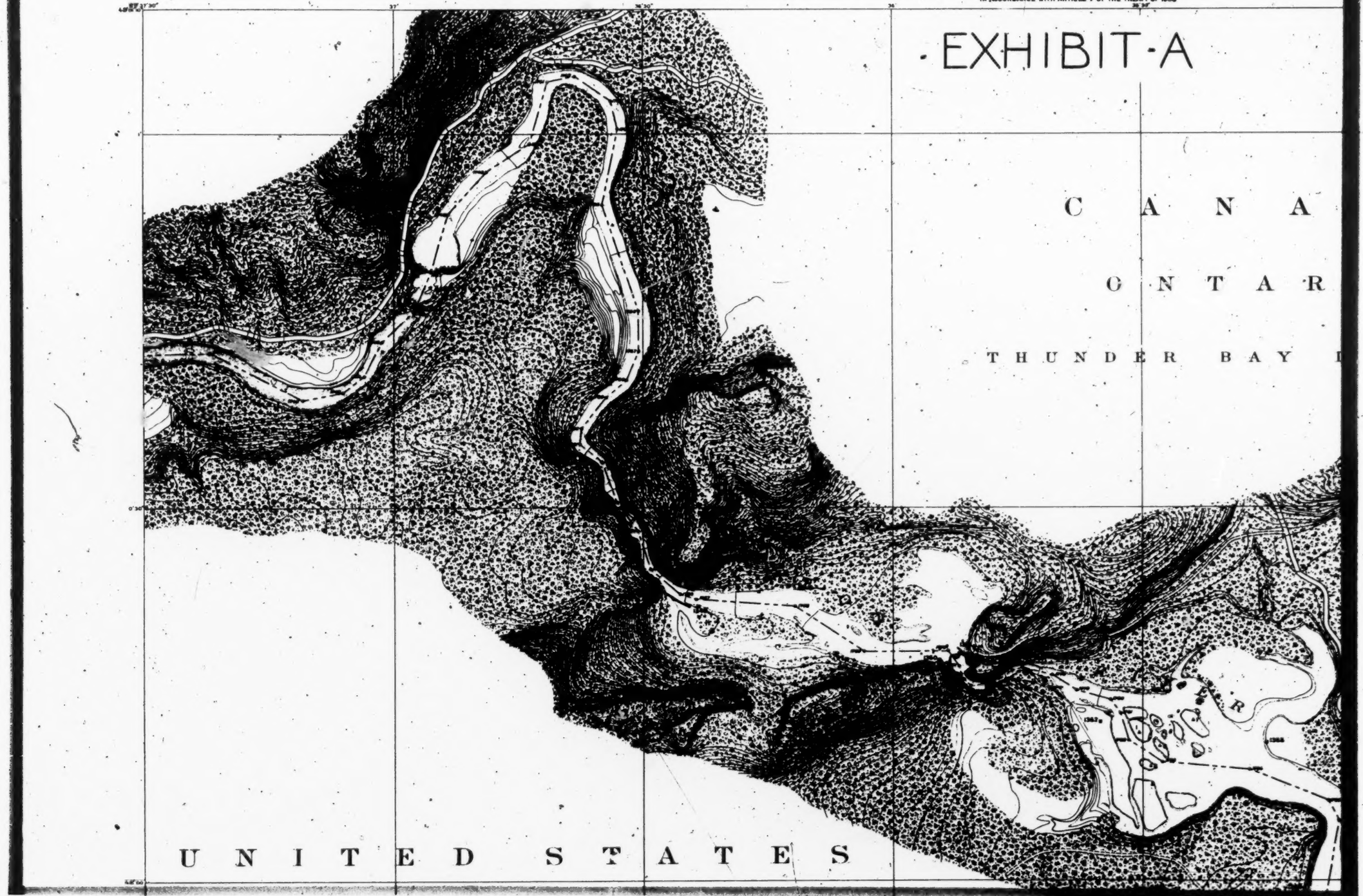
SHEET No. 36

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1918
E.C. BARNARD, 1915-1921	J.J. MacARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.O. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-A



INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 36

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1916
E.C. BARNARD, 1915-1921	J.J. McARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.D. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-A

C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T

L A K E S U P E R I O R

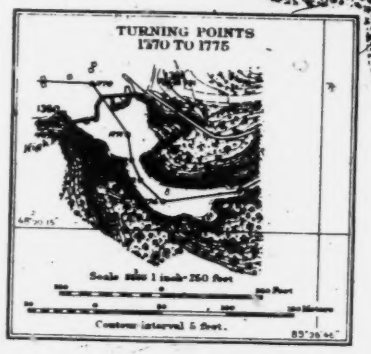
P I G E O N B A Y

E S

U N I T E D S T A T E S

M I N N E S O T A

C O O K C O U N T Y



Scale 1 inch = 500 feet

Contour interval 5 feet.

FOR THE UNITED STATES

JESSE HILL, ENGINEER TO THE COMMISSION

SURVEYORS IN CHARGE: W. B. FAIRFIELD, 1908 AND 1909, JOHN J. PHELAN, 1917, AND JESSE HILL, 1918
CONTROL BY W. B. FAIRFIELD, 1908, JESSE HILL AND E. R. MARTIN, 1918
TOPOGRAPHY BY RUDOLPH LEUCHER, 1909, J. J. CHANTERS, CHARLES E. CARR, L. DUNDLER, AND P. H. DUNDLER, 1917, AND R. K. LYNT, 1917 AND 1918
MONUMENTING BY E. R. MARTIN, 1918

MATHEMATICIAN, R. H. ASHMUN
CARTOGRAPHER, EDWARD RAUSCH

FOR HIS MAJESTY

J. A. POUNDER, D. L. S., ENGINEER TO THE COMMISSION

INSPECTION BY J. J. MCARTHUR, D. L. S., 1918

Enlarged Areas

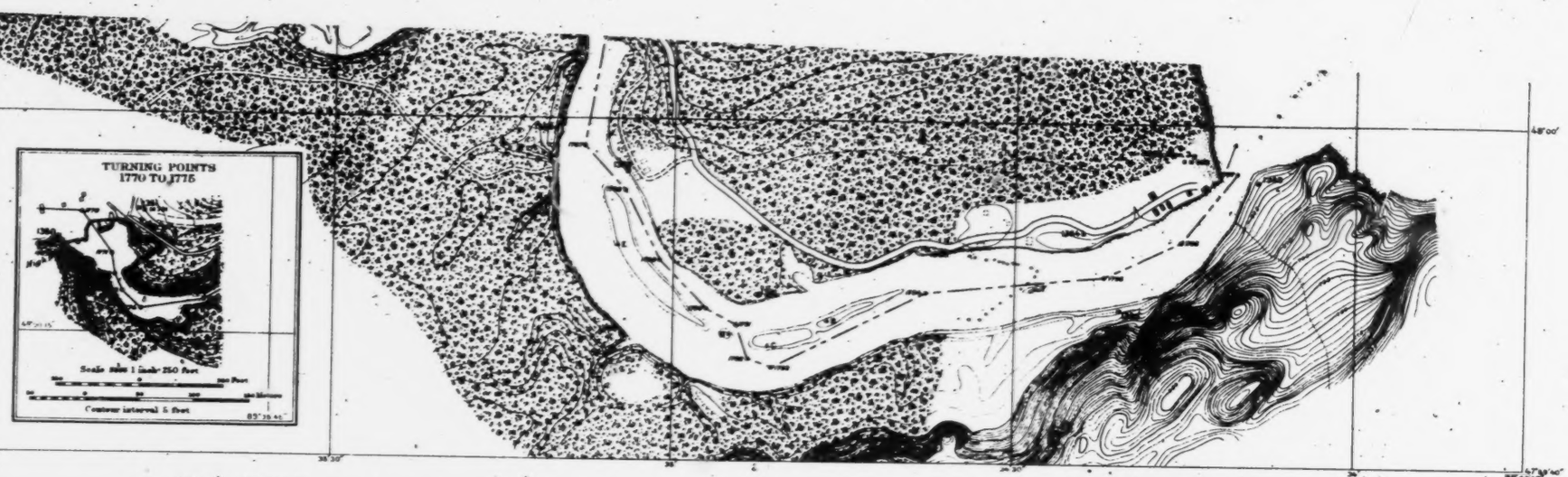
Providence *Evergreen*

International Boundary Line
Boundary Reference Marks (bronze posts, 6 in high) ●
Boundary Turning Points (not marked)

Reference Marks D67 AD40 AD49 A and those marked AB C D E F, 6 A E and I are bronze disks 3 inches in diameter.

Date of publication 1910

E S



Scale 1 inch = 500 feet

Contour interval 5 feet

Timbered Areas

Deciduous Evergreen

International Boundary Line

Boundary Reference Marks (Bronze posts 9 in high) a

Boundary Turning Points (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed February 27, 1920

His Britannic Majesty's Commissioner

United States Commissioner

SHEET NO. 36

No. 2706

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 35 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 35

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1915
E.C. BARNARD, 1915-1931	J.J. McARTHUR, 1917-1924
F. LESTER JONES, 1921-1929	J.D. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

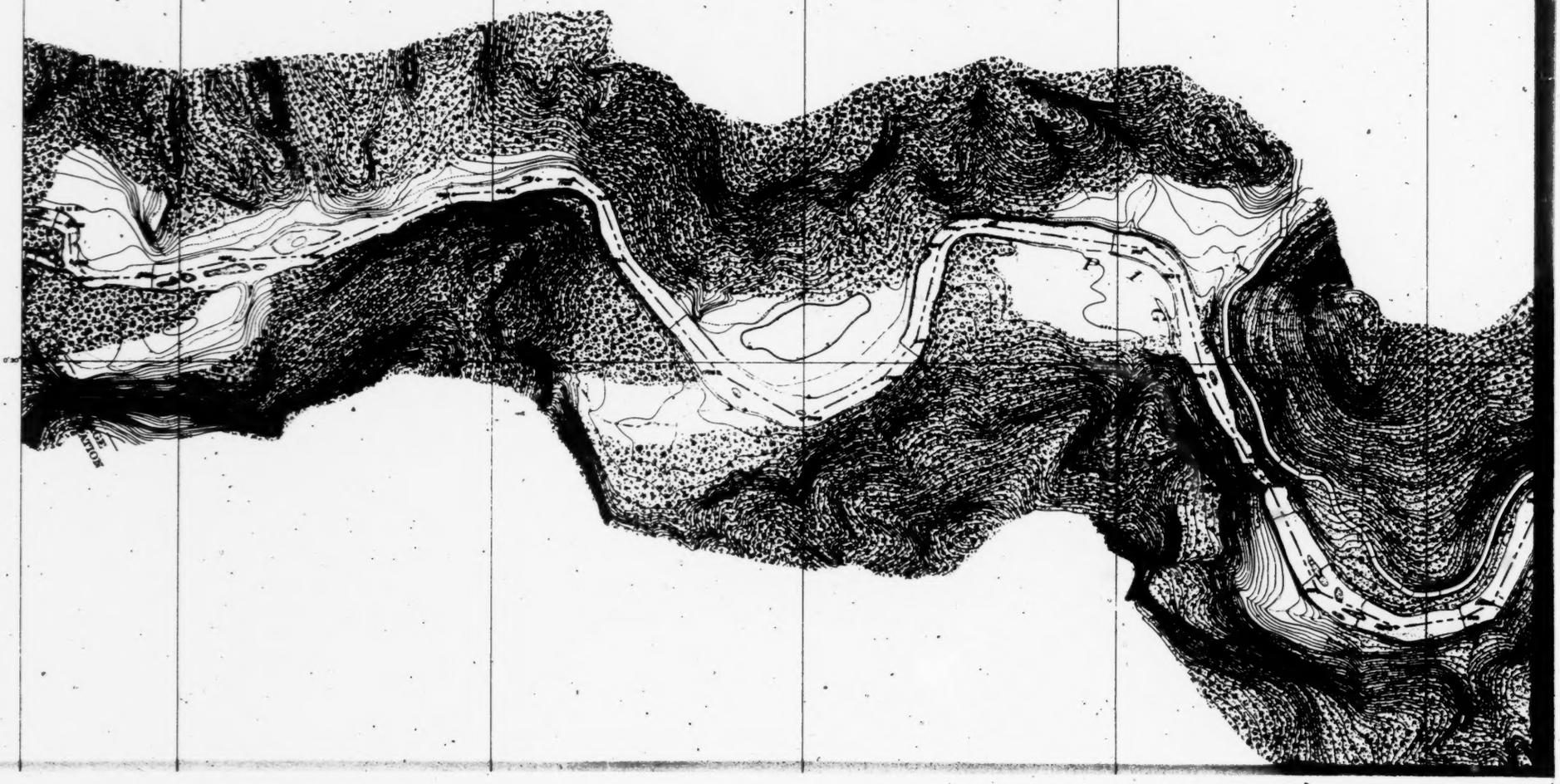
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-B

CANADA

ONTARIO

THUNDER BAY DISTRIC



INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 35

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER
O.H. TITTMANN, 1908-1915
E.C. BARNARD, 1915-1921
E. LESTER JONES, 1921-1929
JAMES H. VAN WAGENEN, 1929-

HIS BRITANNIC MAJESTY'S COMMISSIONER
W. F. KING, 1908-1918
J.J. McARTHUR, 1917-1934
J.D. CRAIG, 1925-

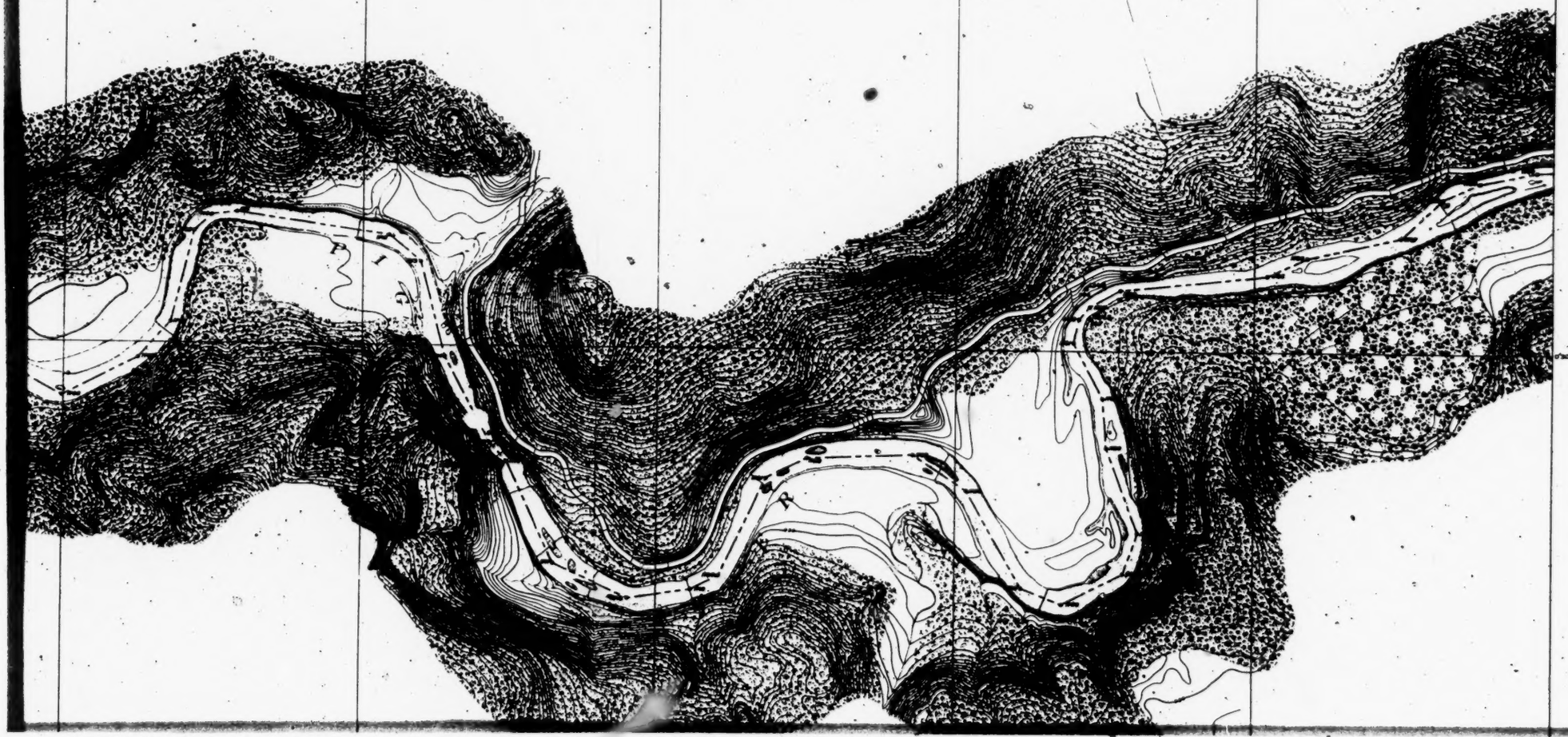
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

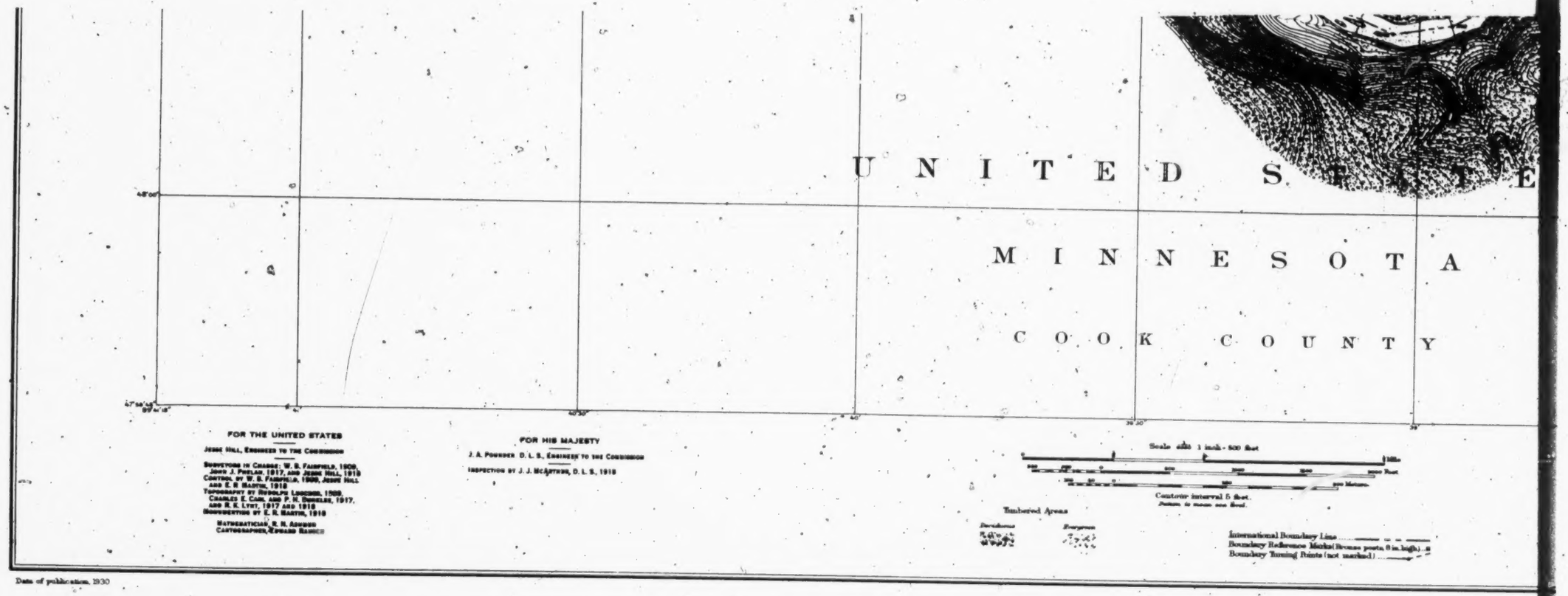
EXHIBIT-B

C A N A D A

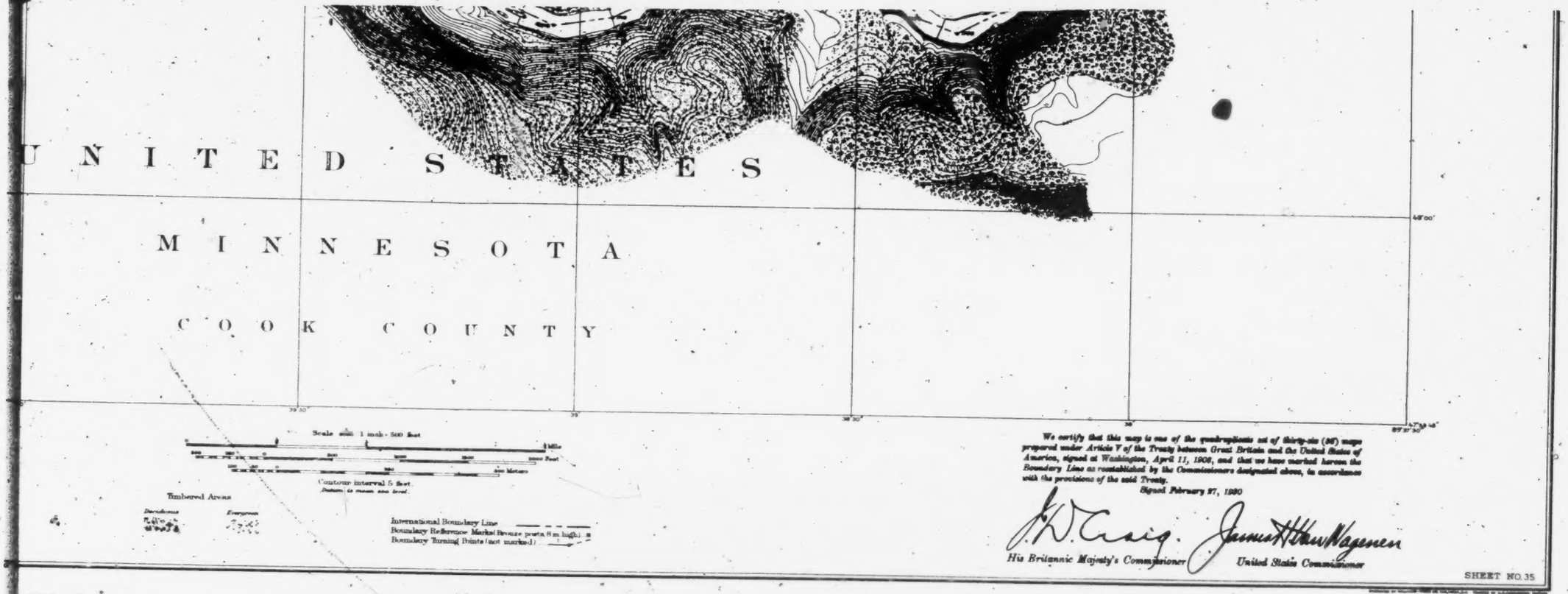
O N T A R I O

T H U N D E R B A Y D I S T R I C T





Date of publication, 1930



We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed February 27, 1930

J. W. Craig.
His Britannic Majesty's Commissioner

James Hawgenen
United States Commissioner

SHEET NO. 35

No. 2704

United States of America

Department of State

To all to whom these presents shall come,--Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 34 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

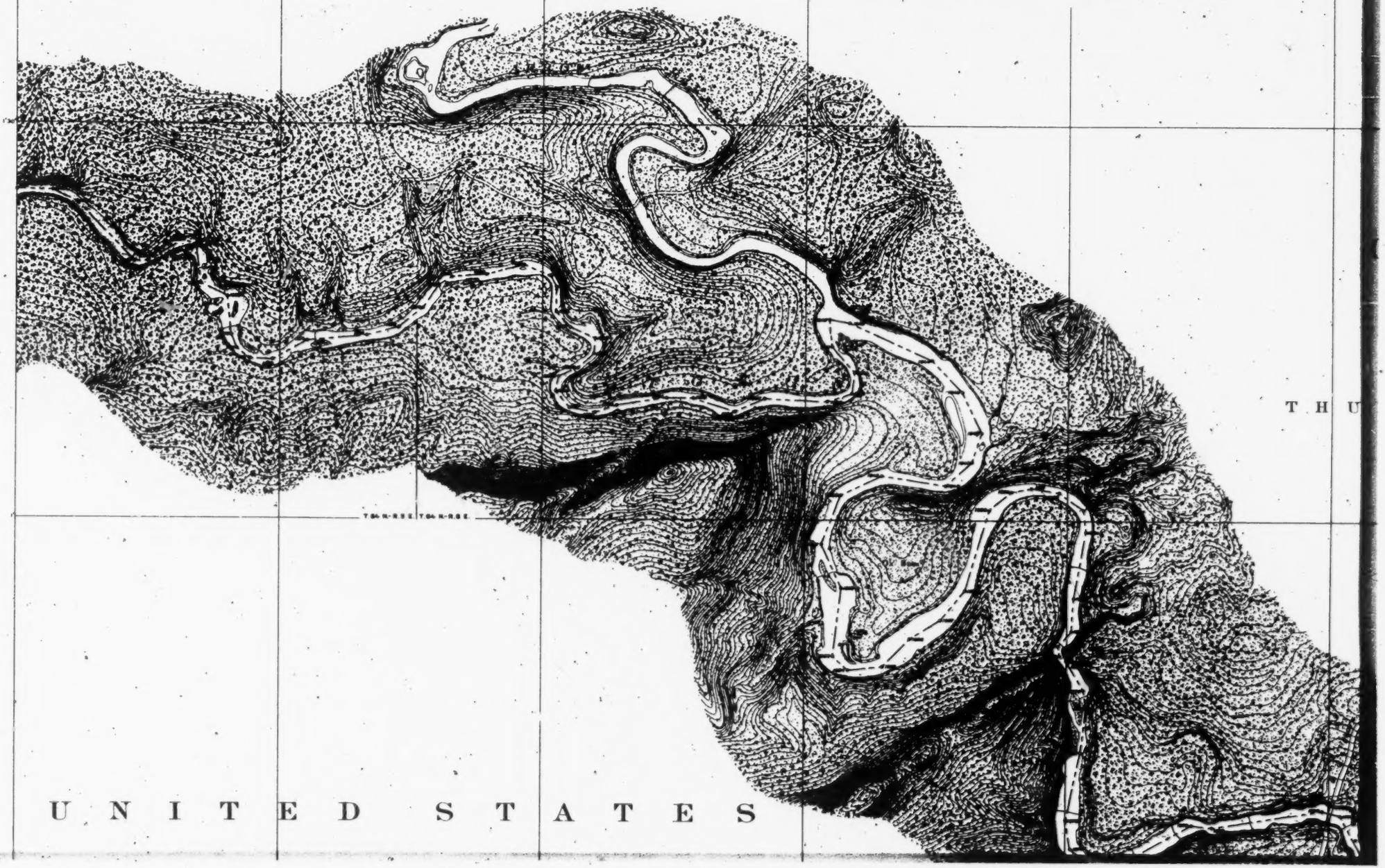
SHEET No. 34

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1918
E.C. BARNARD, 1915-1921	J.J. McARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.O. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-C



INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 34

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1916
E.C. BARNARD, 1915-1921	J.J. McARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.B. CRAIG, 1925-
JAMES K. VAN WAGENEN, 1929-	

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

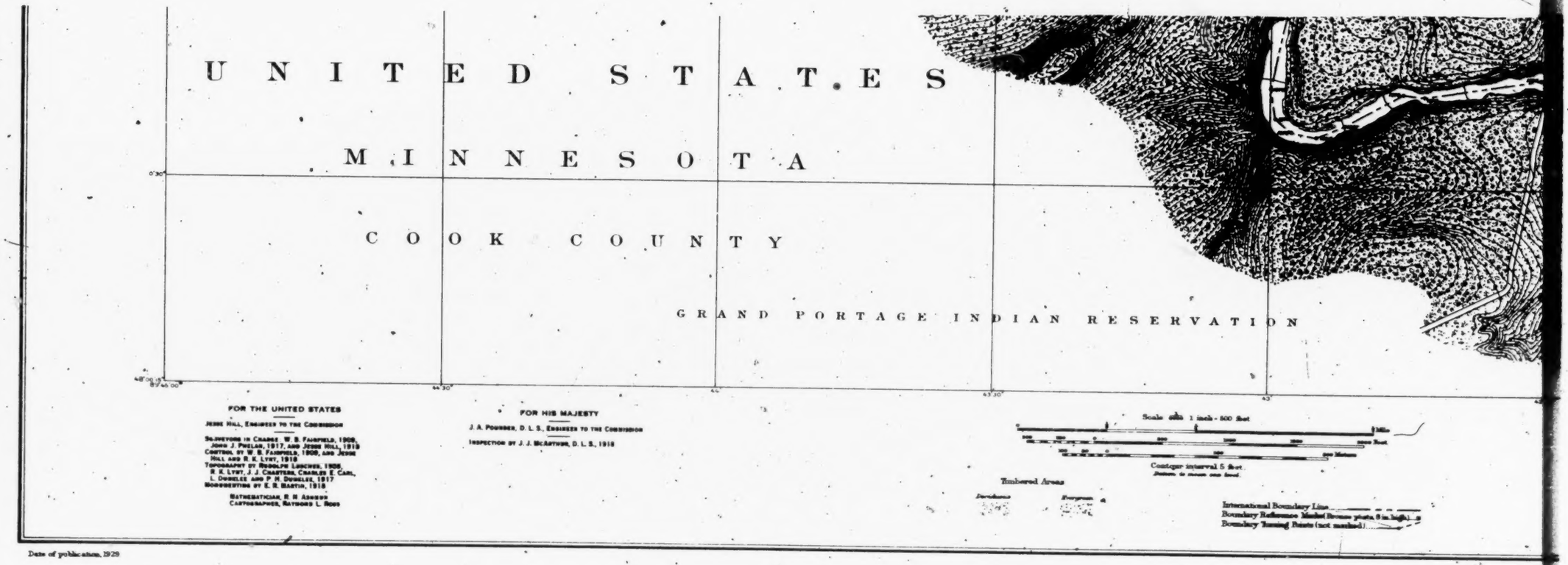
EXHIBIT C

C A N A D A

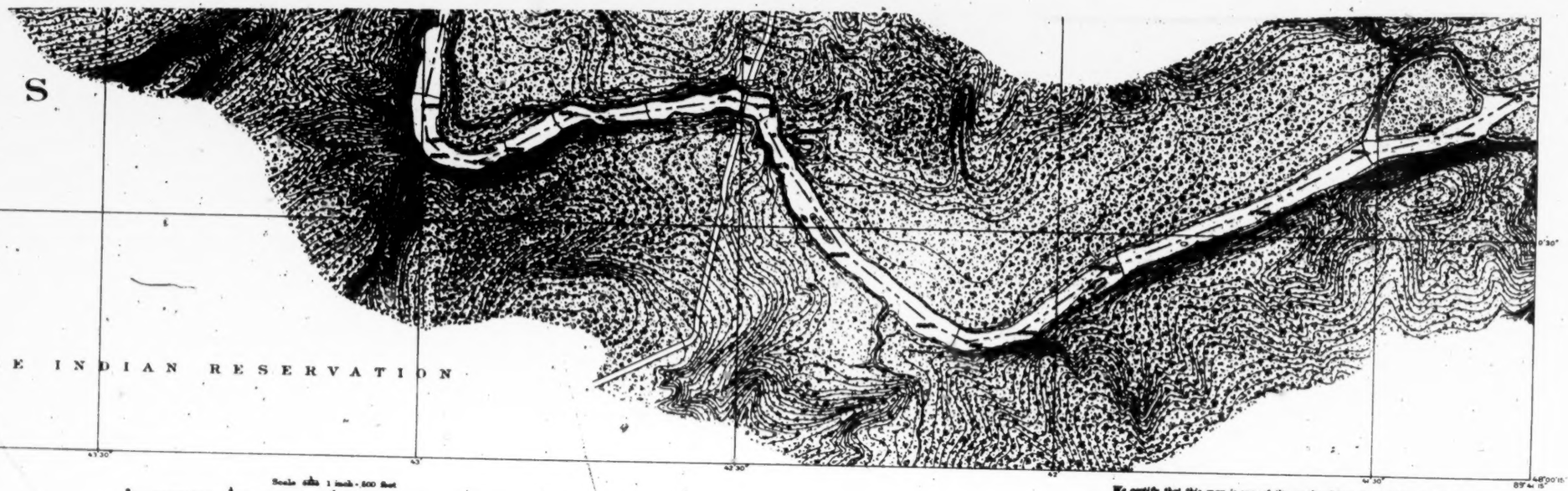
ONTARIO

THUNDER BAY DISTRICT

T E S



Date of publication 1929



We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we there marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed November 20, 1920

His Britannic Majesty's Commissioner — *United States Commissioner*

SHEET NO. 34

No. 2702

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 33 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR.

SHEET No. 33

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O. H. TITTMANN, 1908 - 1915	W. F. KING, 1908 - 1915
E. C. BARNARD, 1915 - 1921	J. J. McARTHUR, 1917 - 1924
E. LESTER JONES, 1921 - 1929	J. D. CRAIG, 1925 -
JAMES H. VAN WAGENEN, 1929 -	

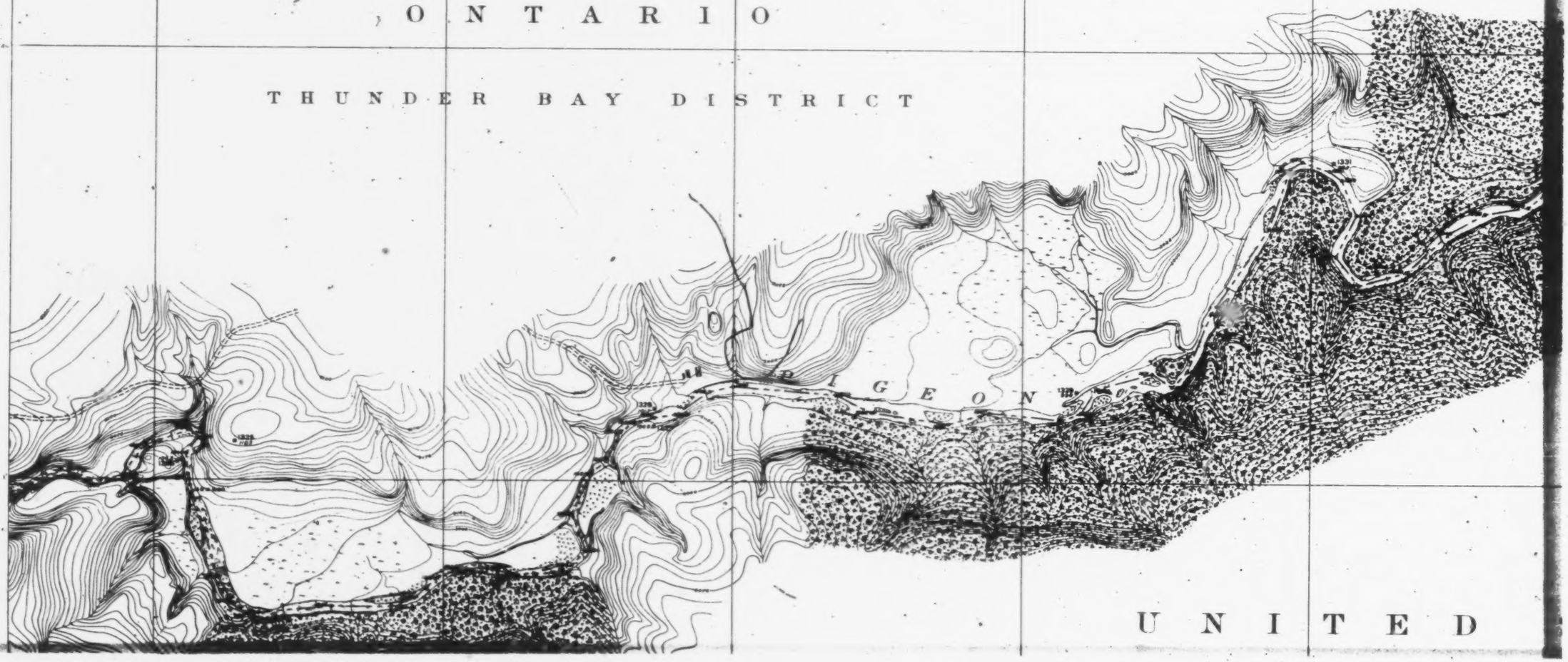
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-D

C A N A D A

O N T A R I O

THUNDER BAY DISTRICT



U N I T E D

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

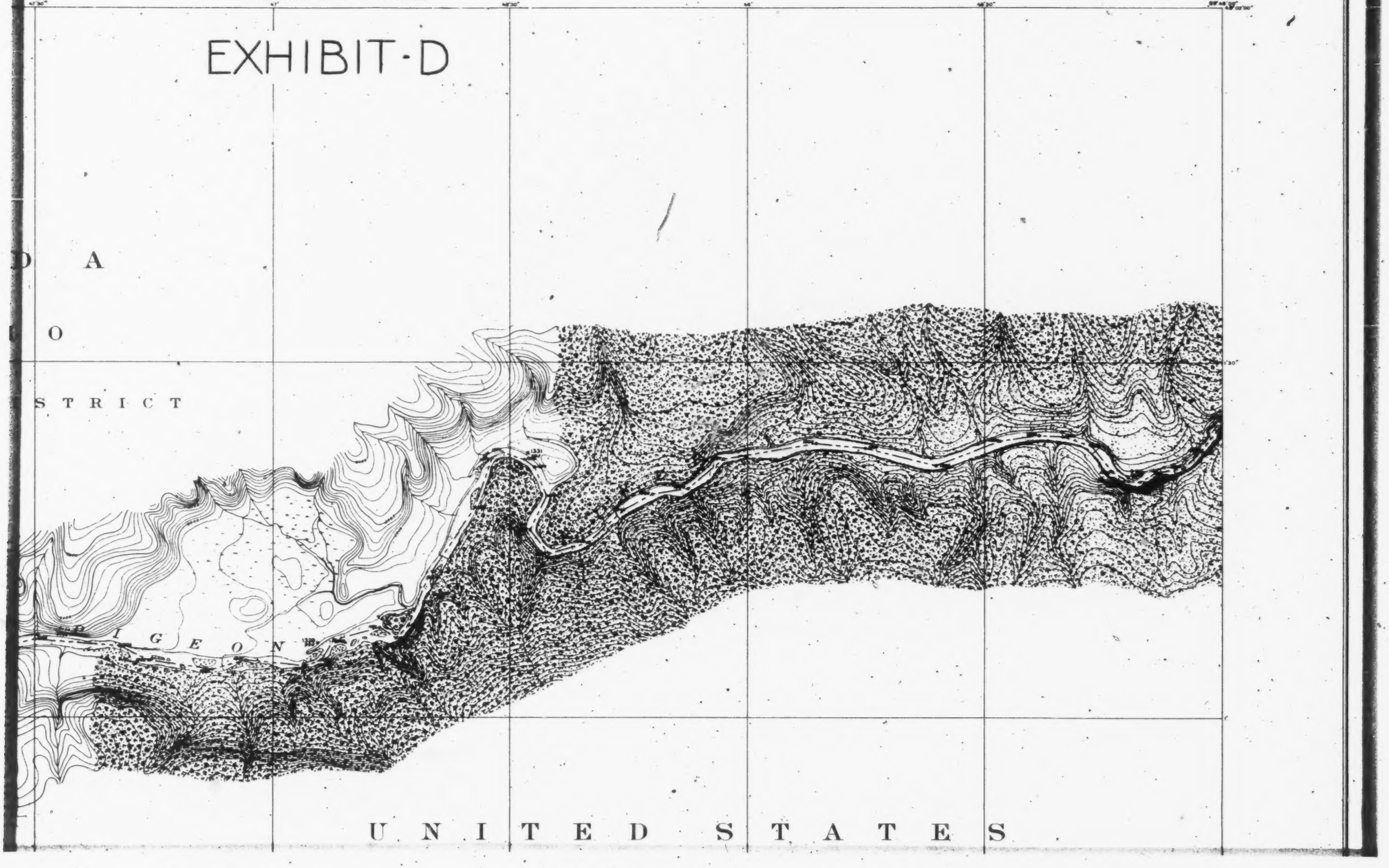
SHEET No. 33

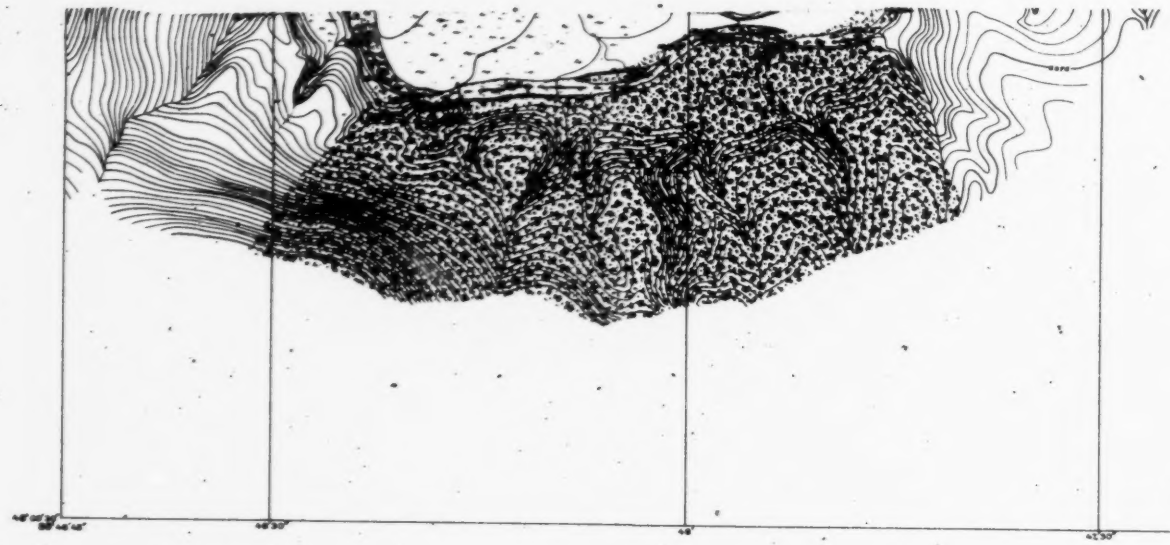
SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1946
E.C. BARNARD, 1915-1921	J.J. McARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.D. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-D





U N I T E D

M I N N

C O O K

GRAND PORTAGE INDIAN RESERVATION

FOR THE UNITED STATES

JESSE HILL, ENGINEER TO THE COMMISSION

SURVEYORS IN CHARGE:—W. S. FAIRFIELD, 1908, JOHN J. PRELAR, 1917, AND JESSE HILL, 1918
CONTROL BY W. S. FAIRFIELD, 1908, AND JESSE HILL AND R. E. LYNT, 1918
TOPOGRAPHY BY RUDOLPH LOBDELL, 1908, J. J. CHARTIER, CHARLES T. CARL, AND L. DWELLEY 1917, AND R. E. LYNT, 1917, AND 1918
SUPERVISING BY E. R. MARTH, 1918

MATHEMATICIAN, S. H. ANDERSON
CARTOGRAPHER, RAYMOND L. REES

FOR HIS MAJESTY

J. A. POUDRIER, D. L. S., ENGINEER TO THE COMMISSION

INSPECTION BY J. J. MCARTHUR, D. L. S., 1918

Scale 1 inch = 800 feet

Contour interval 5 feet.

Timbered Areas

Deciduous Evergreen

International Boundary Line
Boundary Reference Marks (Bronze posts 6 in high)
Boundary Turning Points (not marked)

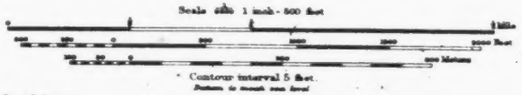
Date of publication, 1919

UNITED STATES

MINNESOTA

COOK COUNTY

GRAND PORTAGE INDIAN RESERVATION



Timbered Areas

Boundary Monument

Evergreen

International Boundary Line

Boundary Reference Marks (Bronze posts, 6 in high).

Boundary Turning Points (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed November 20, 1909

J. W. Craig. James Hawgood

His Britannic Majesty's Commissioner *United States Commissioner*

SHEET NO. 33

No. 2700

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 32 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 32

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER
O.H. TITTMANN, 1908-1909
E.C. BARNARD, 1915-1921
E. LESTER JONES, 1921-1929
JAMES M. VAN HAGENER, 1929-

HIS BRITANNIC MAJESTY'S COMMISSIONER
W.F. KING, 1908-1918
J.J. McARTHUR, 1917-1924
J.D. CRAIG, 1925-

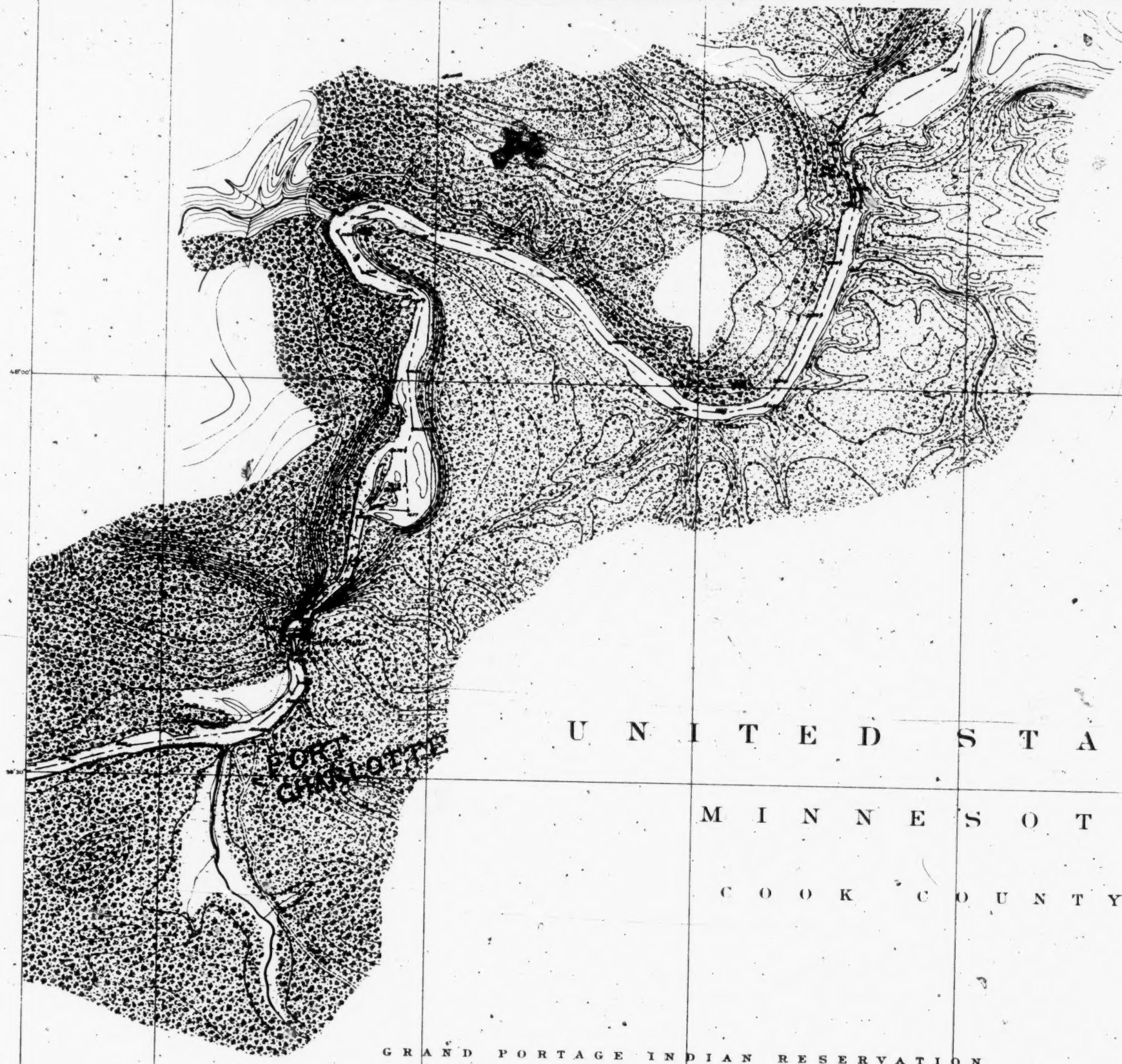
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-E

C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T



UNITED STATES

MINNESOTA

COOK COUNTY

GRAND PORTAGE INDIAN RESERVATION

MINNESOTA

COOK COUNTY

GRAND PORTAGE INDIAN RESERVATION

FOR THE UNITED STATES

JESSE HILL, ENGINEER TO THE COMMISSION

SURVEYING IN CANADA: W. B. FAIRFIELD, 1908, JESSE J. PHELAN, 1917, AND JESSE HILL, 1918
COMPUTING BY W. B. FAIRFIELD, 1909, AND JESSE HILL AND R. E. LYST, 1918
TOPOGRAPHY BY RUDOLPH LINDENS, 1908, J. J. CROOTTEN, CHARLES E. CARR, AND L. DONELSE 1917, AND R. E. LYST, 1917 AND 1918
REDUCTION BY E. R. MARVIN, 1918

PHOTOGRAPHED, E. R. ARMSTRONG
CHROMOGRAPHED, RAYMOND L. BAKE

FOR HIS MAJESTY

J. A. FOOTNER, D. L. S., ENGINEER TO THE COMMISSION

INSPECTION BY J. J. MCARTHUR, D. L. S., 1918

Scale 2000 1 inch = 800 feet

Contour interval 5 feet.

Enlarged Areas

International Boundary Line
Boundary Reference Marks (Bronze posts, 6 in. high)
Boundary Turning Points (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed December 20, 1920

J. W. Craig
His Britannic Majesty's Commissioner

James Hawes Wagoner
United States Commissioner

SHEET NO. 32

Date of publication, 1929

No. 2698

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 31 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 31

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER
G.H. TITTMANN, 1908-1910
E.C. BARNARD, 1908-1921
E. LESTER JONES, 1921-1929
JAMES H. VAN WAGENEN, 1929-

HIS BRITANNIC MAJESTY'S COMMISSIONER
W.F. KING, 1908-1915
J.J. McARTHUR, 1917-1924
J.D. CRAIG, 1925-

IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-F

C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 31

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
G.R. TITTMANN, 1908–1915	W.F. KING, 1908–1915
E.C. BARNARD, 1915–1921	J.J. McARTHUR, 1917–1934
E. LESTER JONES, 1921–1929	J.D. CRAIG, 1925–
JAMES H. VAN WAGENEN, 1929–	

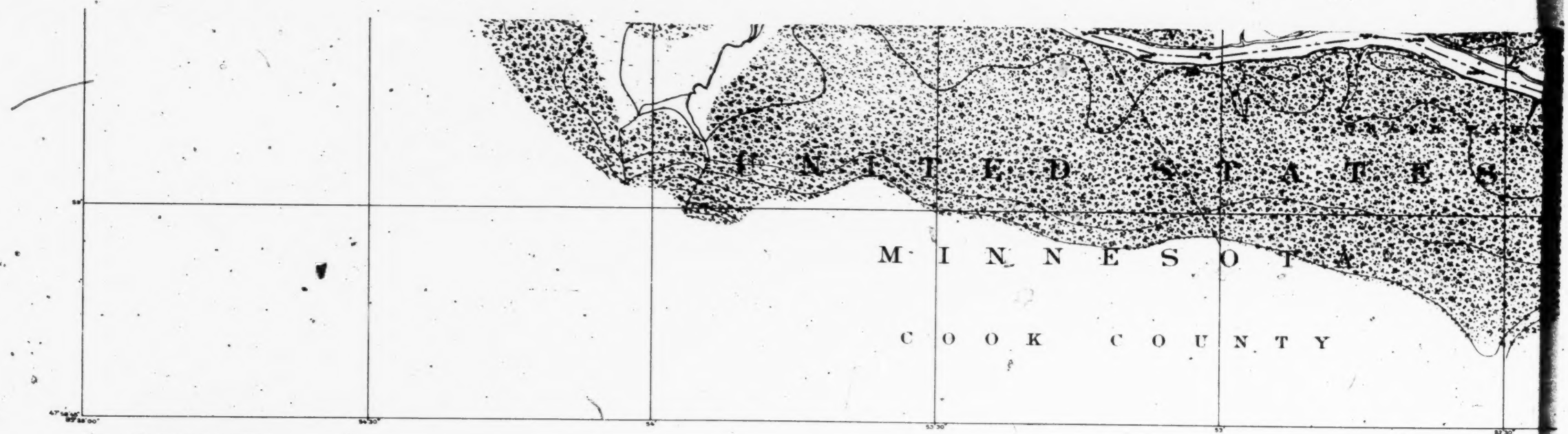
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

EXHIBIT-F

C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T



FOR THE UNITED STATES

JESSE HILL, ENGINEER IN THE CHARGE

SURVEYORS IN CHARGE: W. S. FAIRFIELD, 1908, JOHN J. PHELAN, 1917, AND JESSE HILL, 1918
CONTROL BY W. S. FAIRFIELD, 1908, AND JESSE HILL AND R. E. LYNT, 1918
TOPOGRAPHY BY RUDOLPH LOSCHER, 1908, AND R. E. LYNT, J. J. CHANTERS, CHARLES E. CARL, L. DONELSON, AND P. H. DONELSON, 1917
REVISIONS BY E. R. MARTIN, 1918

MATHEMATICIAN, R. H. ASHTON
CARTOGRAPHER, RAYMOND L. ROSS

FOR HIS MAJESTY

J. A. POCOCK D. L. S., ENGINEER IN THE CHARGE

INSPECTION BY J. J. MCARTHUR D. L. S., 1918

Scale one inch = 500 feet

Contour interval 5 feet

Elevations in meters above datum

Timbered Areas

Deciduous

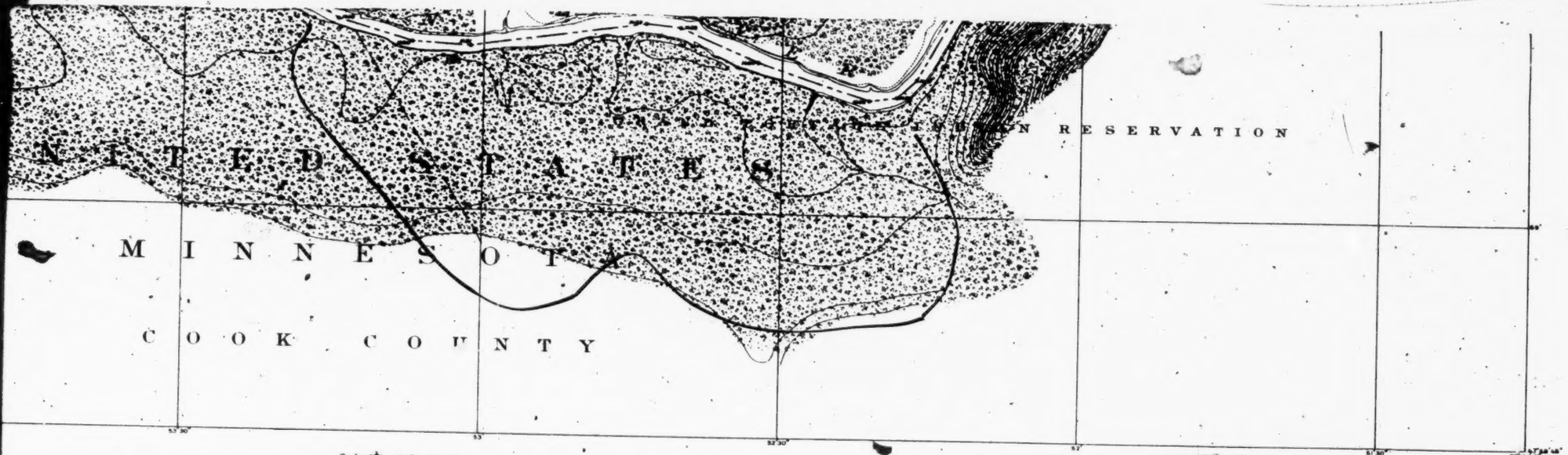
Evergreen

International Boundary Line

Boundary Reference Marks (Bronze posts 6 in. high)

Boundary Turning Points (not marked)

Date of publication, 1919



Scale 40in 1 inch - 500 feet

Contour interval 5 feet

Timbered Areas

International Boundary Line

Boundary Reference Marks (Bronze posts 6 in. high)

Boundary Stone[Posts (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed September 26, 1910

J. W. Craig. James Hamilton Wagner

His Britannic Majesty's Commissioner — United States Commissioner

SHEET NO. 31

19a

No. 2696

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

19b

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 30 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 30

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O.H. TITTMANN, 1908-1915	W.F. KING, 1908-1918
E.C. BARNARD, 1915-1921	J.J. McARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J.D. CRAIG, 1925-
JAMES N. VAN WAGENEN, 1929-	

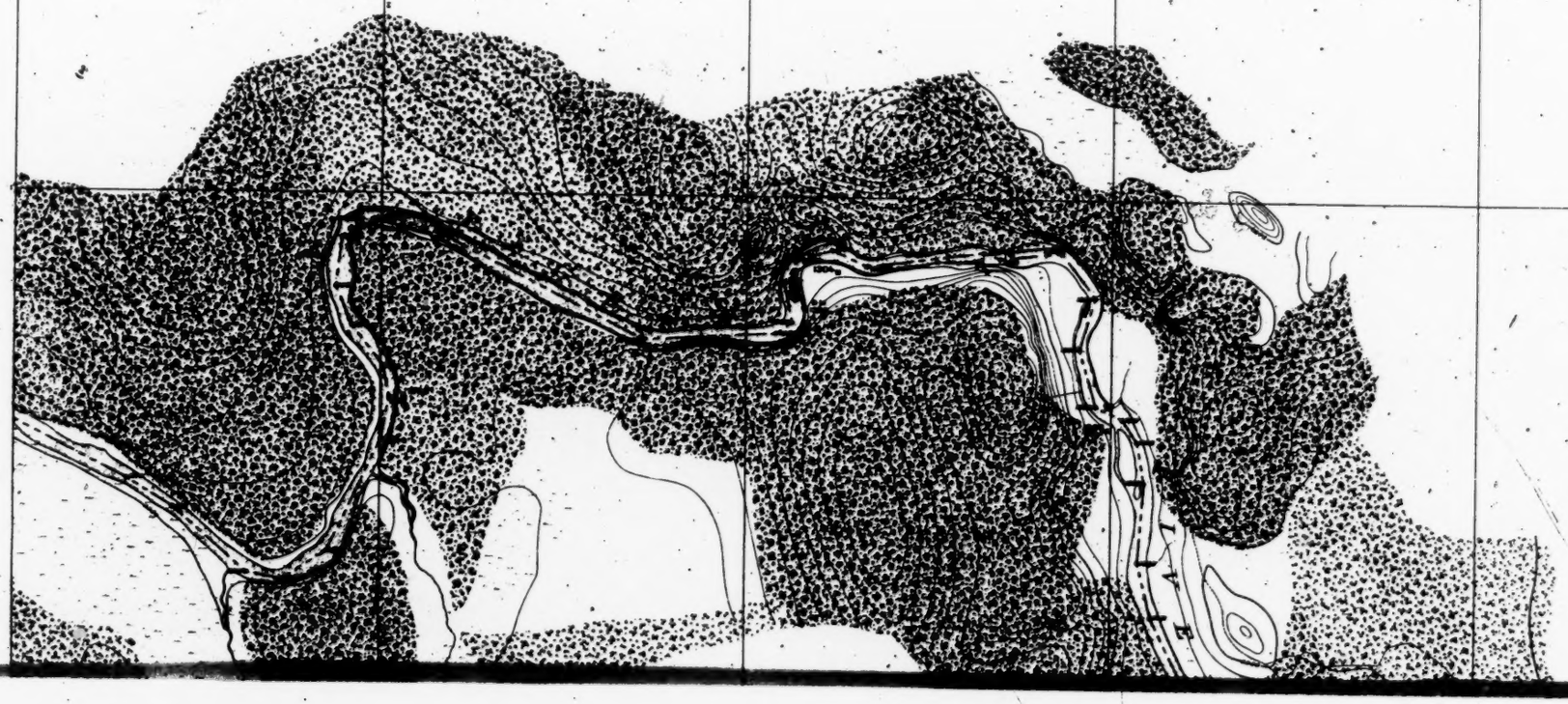
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

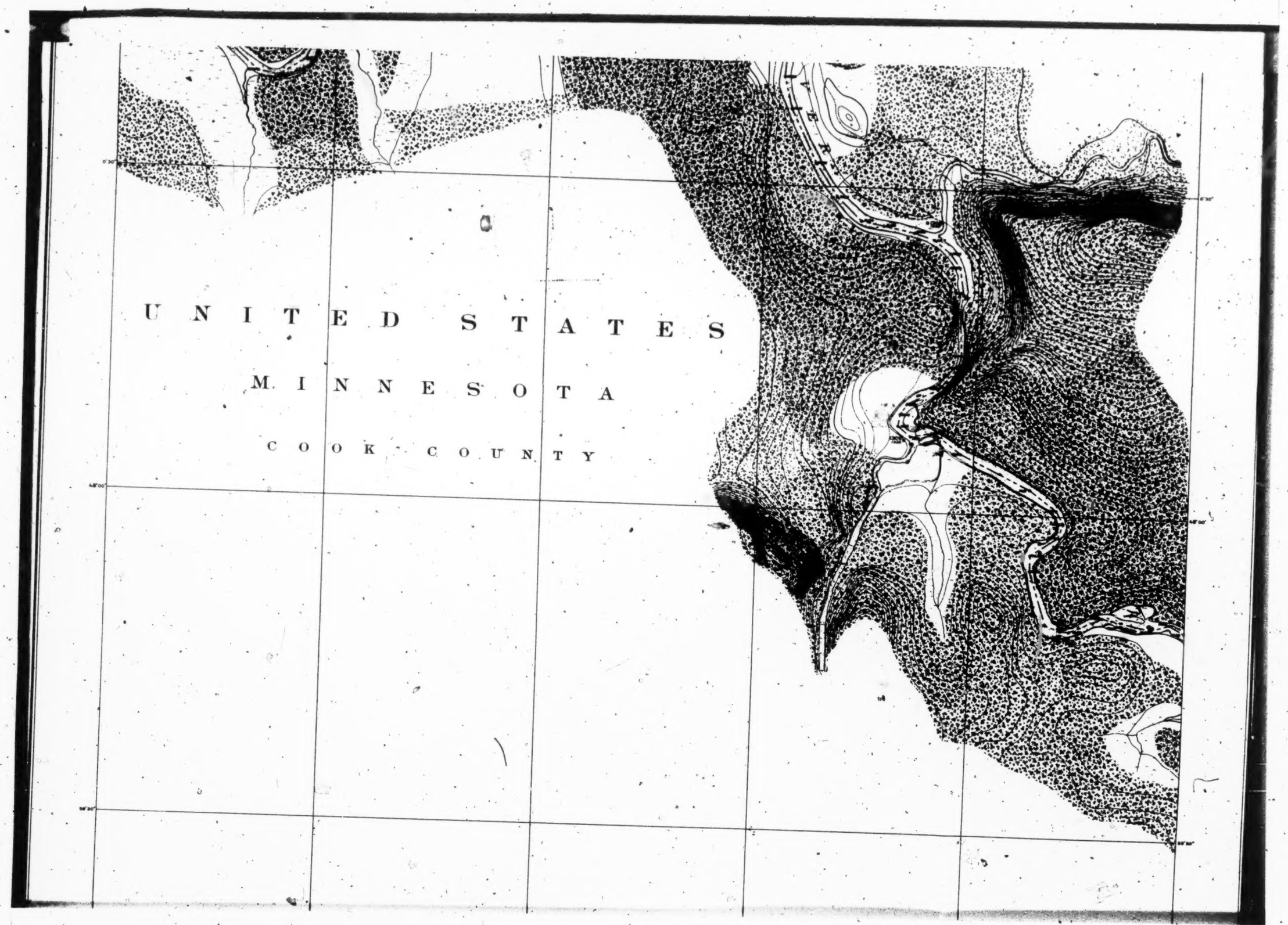
EXHIBIT G

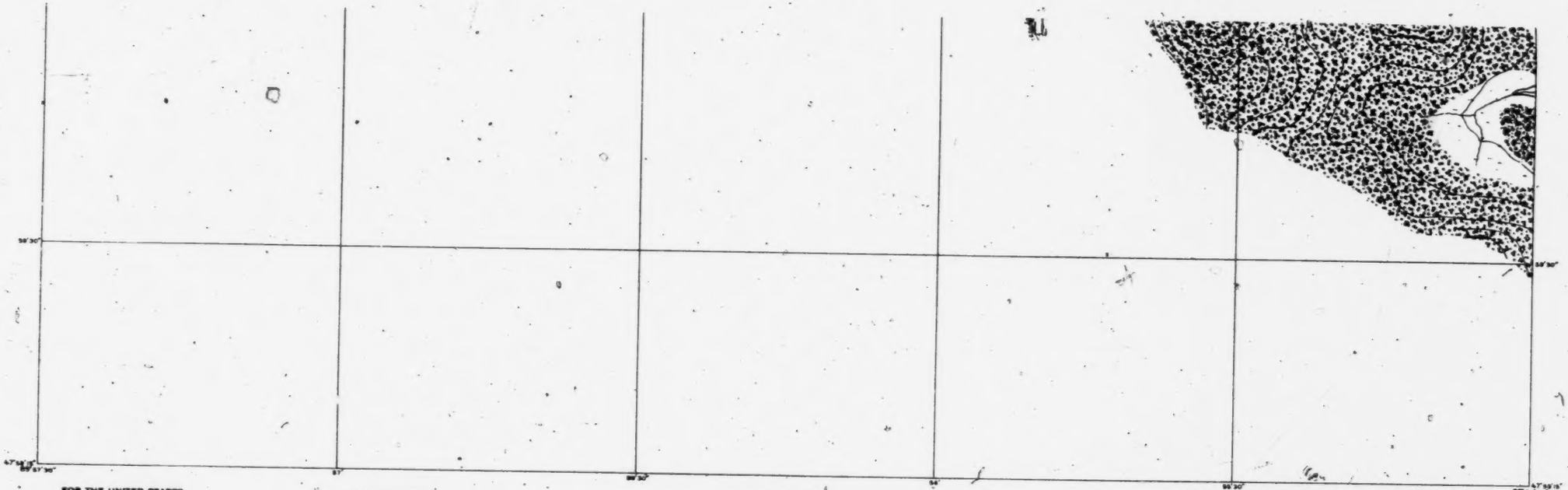
C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T




UNITED STATES
MINNESOTA
COOK COUNTY



FOR THE UNITED STATES

JESSE HILL, ENGINEER TO THE COMMISSION

SURVEYORS IN CHARGE, W. S. FAIRFIELD, 1908, JOHN J. PUBLAN, 1917, AND JESSE HILL, 1918

CONTROL BY W. S. FAIRFIELD, 1909, R. K. LYOT, 1917, AND JESSE HILL, 1918

TOPOGRAPHY BY RUDOLPH LINDNER, 1908, R. K. LYOT, J. J. CRABTREE, L. DUNDLEE, AND P. H. DUNDLEE, 1917

SUPERVISION BY E. R. MARTIN, 1918

ASTRONOMICAL, H. H. ADKINS
CARTOGRAPHER, RAYMOND L. ROSS

FOR HIS MAJESTY

J. A. PROVOST, D. L. S., ENGINEER TO THE COMMISSION

INSPECTION BY J. J. MCARTHUR, D. L. S., 1918

Scale 1 inch = 400 feet

Miles

Statute miles and feet

Kilometers

Contour interval 5 feet.

Timbered Areas

International Boundary Line

Boundary Reference Marks (Bronze posts 6 in. high)

Boundary Turning Points (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as reestablished by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed September 26, 1929

J. W. Craig
His Britannic Majesty's Commissioner

James Hawgood
United States Commissioner

Date of publication, 1929

SHEET NO 30

No. 2694

United States of America

Department of State

To all to whom these presents shall come,—Greeting:

I Certify That the document hereunto annexed is under the Seal of the International Boundary Commission, United States, Alaska, and Canada, and that James H. Van Wagenen, whose name is subscribed thereunto, is the Commissioner for the United States.

In Testimony Whereof, I, William R. Castle, Jr. Acting Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the City of Washington, in the District of Columbia, this thirteenth day of May, 1932.

Seal
Department of State
United States of
America

WILLIAM R. CASTLE, JR.
Acting Secretary of State.
By (Signature illegible), Chief Clerk.

International Boundary Commission

United States, Alaska, and Canada

United States Section

Address all Communications to
International Boundary Commission
United States, Alaska, and Canada
Washington, D. C.

James H. Van Wagenen, United States Commissioner
Noel J. Ogilvie, Canadian Commissioner

Washington, May 13, 1932

I hereby certify that the attached map is a true copy of Sheet No. 29 of the set of thirty-six maps of the International Boundary Line from the Northwesternmost Point of Lake of the Woods to Lake Superior, as reestablished by the Commissioners in accordance with the provisions of Article V of the Treaty between Great Britain and the United States of America, signed at Washington April 11, 1908.

JAMES H. VAN WAGENEN,
United States Commissioner.

Seal
International Boundary Commission
United States Section
United States-Alaska-Canada

INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

SHEET No. 29

SURVEYED UNDER THE DIRECTION OF

UNITED STATES COMMISSIONER	HIS BRITANNIC MAJESTY'S COMMISSIONER
O. H. TITTMANN, 1908-1915	W. F. KING, 1908-1918
E. C. BARNARD, 1915-1921	J. J. Mc ARTHUR, 1917-1924
E. LESTER JONES, 1921-1929	J. D. CRAIG, 1925-
JAMES H. VAN WAGENEN, 1929-	

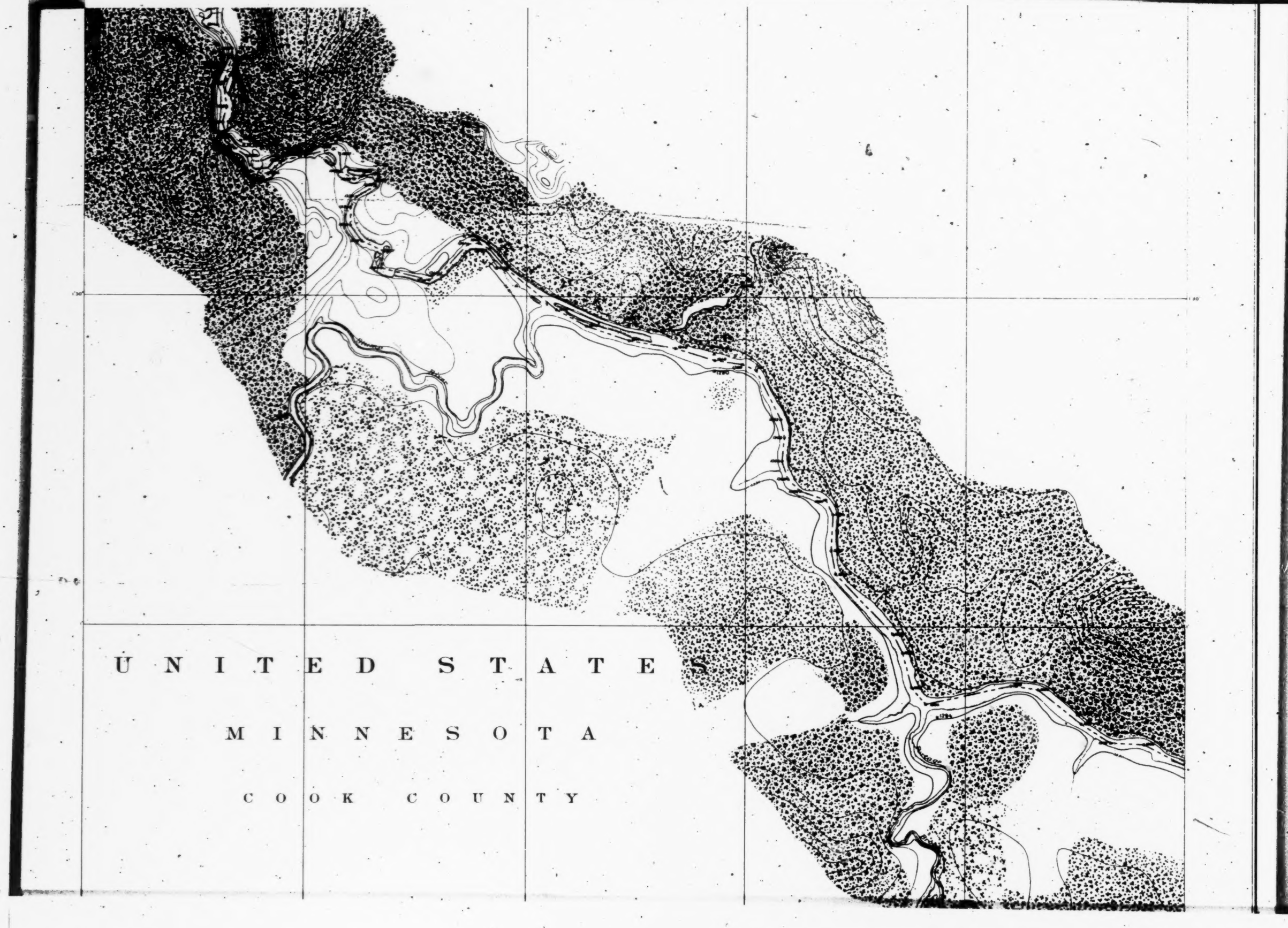
IN ACCORDANCE WITH ARTICLE V OF THE TREATY OF 1908

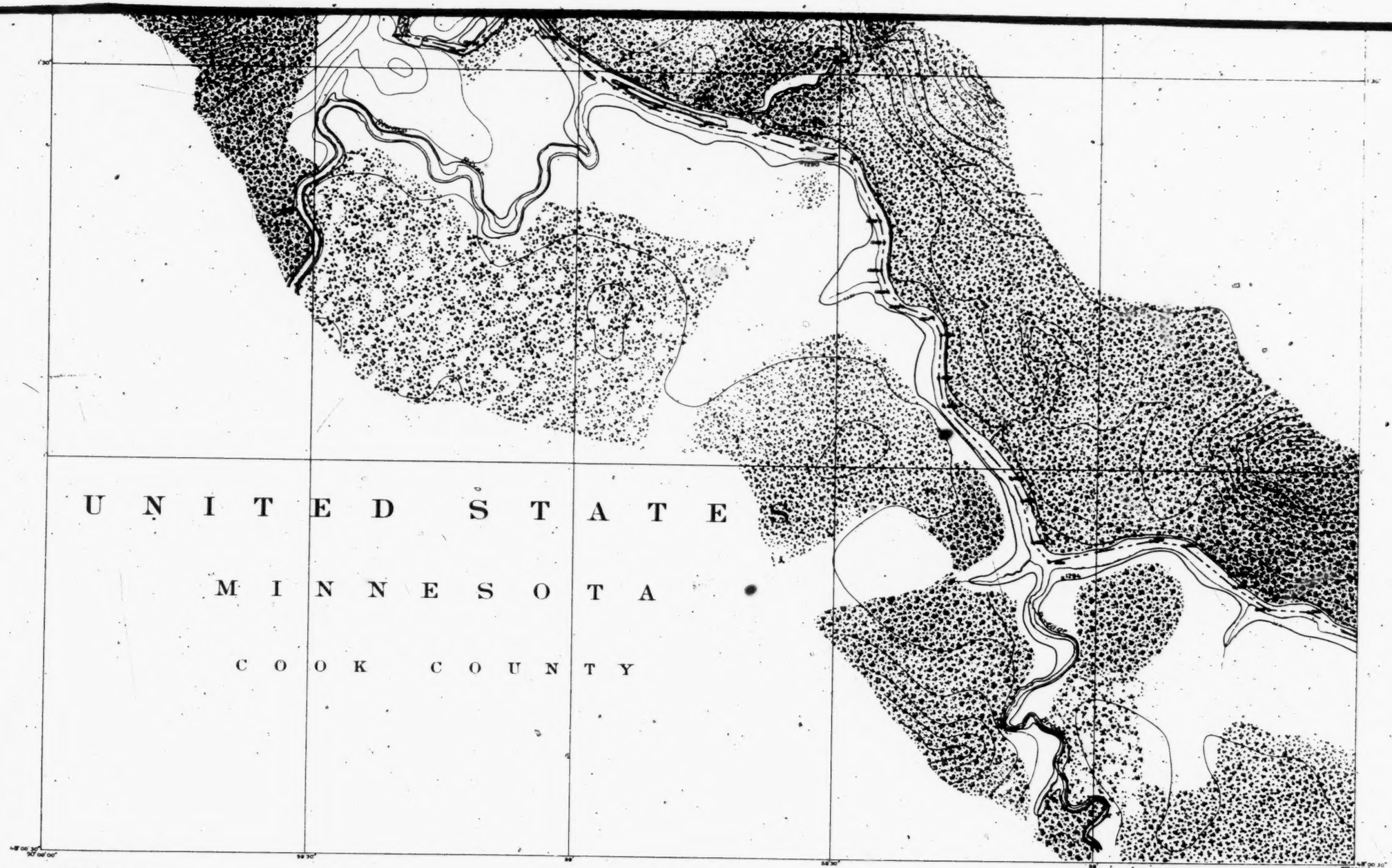
· EXHIBIT · H ·

C A N A D A

O N T A R I O

T H U N D E R B A Y D I S T R I C T


UNITED STATES
MINNESOTA
COOK COUNTY



FOR THE UNITED STATES

JESSE HILL, ENGINEER TO THE COMMISSION

SURVEYORS IN CHARGE: W. B. FAIRFIELD, 1909, JOHN J. PHELAN, 1917, AND JESSE HILL, 1917 AND 1918.
CONTROL BY W. B. FAIRFIELD, 1909, AND JESSE HILL, 1917 AND 1918.
TOPOGRAPHY BY RUDOLPH LINDNER, 1909, R. E. LYNT, J. J. CRABTREE, L. DOUGLAS, AND P. H. DOUGLAS, 1917.
BOUNDARIES BY E. R. MARTIN, 1918.

MATHEMATICIAN, R. H. ADDISON
CARTOGRAPHER, RAYMOND L. ROSS

FOR HIS MAJESTY

O. A. POWNER, D. L. S., ENGINEER TO THE COMMISSION

INSPECTION BY J. J. MCARTHUR, D. L. S., 1918

Scale 40 chs. 1 inch - 500 feet

Miles
Statute Feet
Metres

Contour interval 5 feet.
Datum is mean sea level.

Timbered Areas

Deciduous
Evergreen

International Boundary Line
Boundary Reference Marks (Bronze posts, 6 in. high)
Boundary Turning Points (not marked)

We certify that this map is one of the quadruplicate set of thirty-six (36) maps prepared under Article V of the Treaty between Great Britain and the United States of America, signed at Washington, April 11, 1908, and that we have marked hereon the Boundary Line as re-established by the Commissioners designated above, in accordance with the provisions of the said Treaty.

Signed September 25, 1920

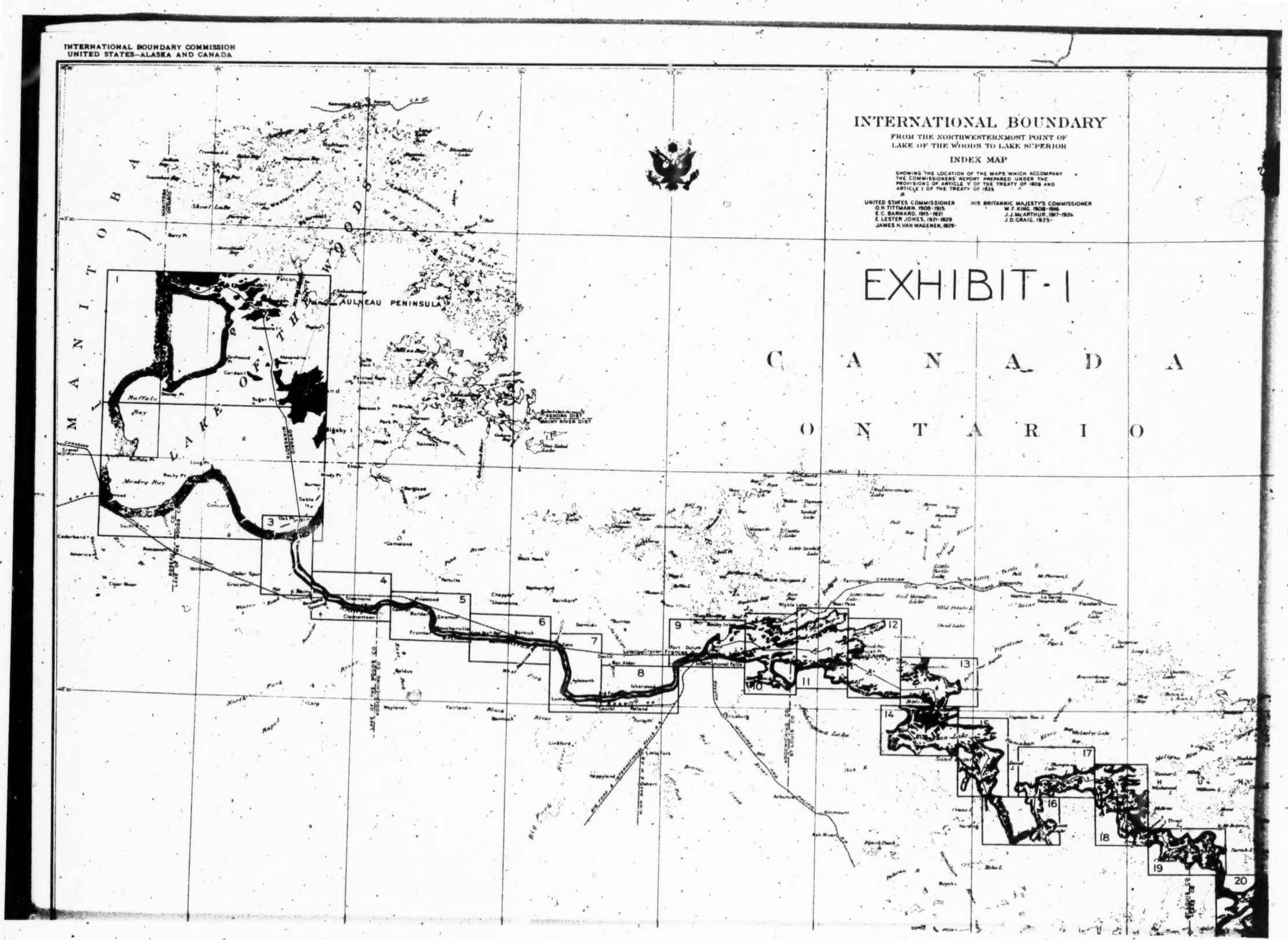
J. W. Craig
His Britannic Majesty's Commissioner

James Hawes Wagoner
United States Commissioner

SHEET NO. 29

Date of publication, 1929

INTERNATIONAL BOUNDARY COMMISSION
UNITED STATES—ALASKA AND CANADA



INTERNATIONAL BOUNDARY

FROM THE NORTHWESTERNMOST POINT OF
LAKE OF THE WOODS TO LAKE SUPERIOR

INDEX MAP

SHOWING THE LOCATION OF THE MAPS WHICH ACCOMPANY THE COMMISSIONERS' REPORT PREPARED UNDER THE PROVISIONS OF ARTICLE V OF THE TREATY OF 1908 AND ARTICLE I OF THE TREATY OF 1925

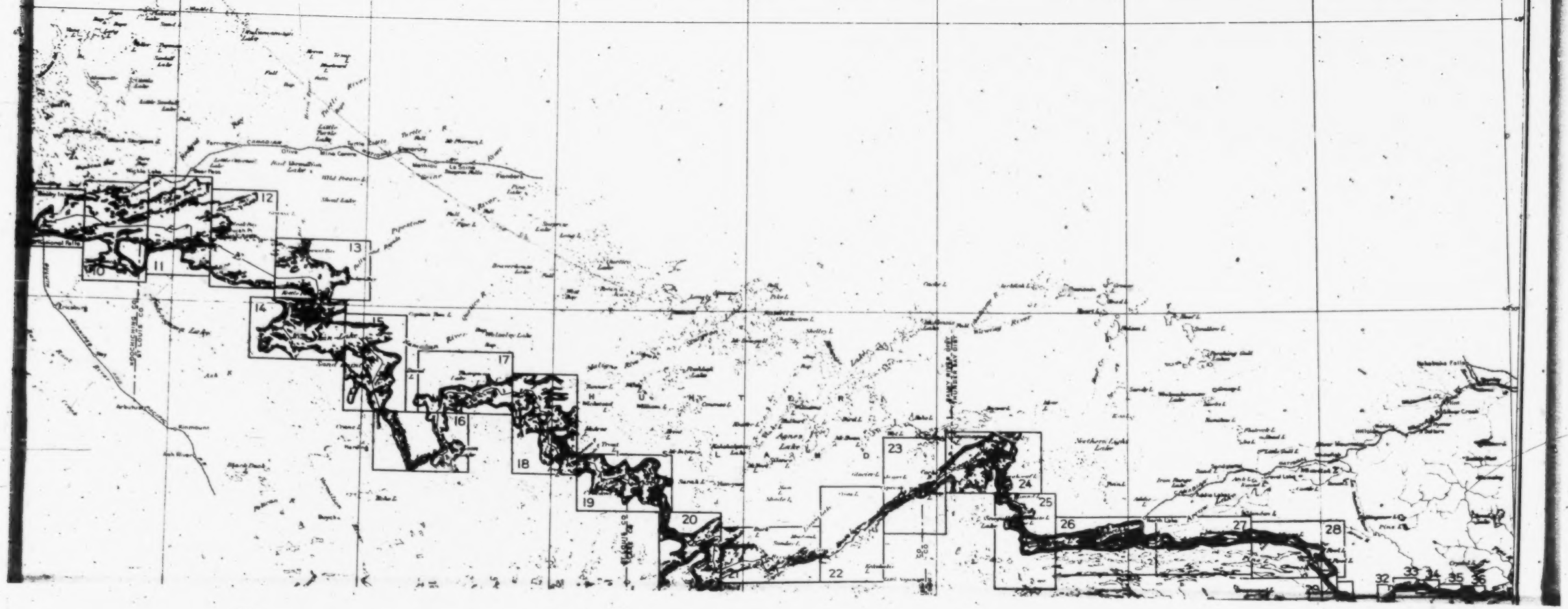
UNITED STATES COMMISSIONER
O.H. TITTMANN, 1908-1915
E.C. BARNARD, 1915-1921
E. LESTER JONES, 1921-1929
JAMES H. VAN WAGENEN, 1929-

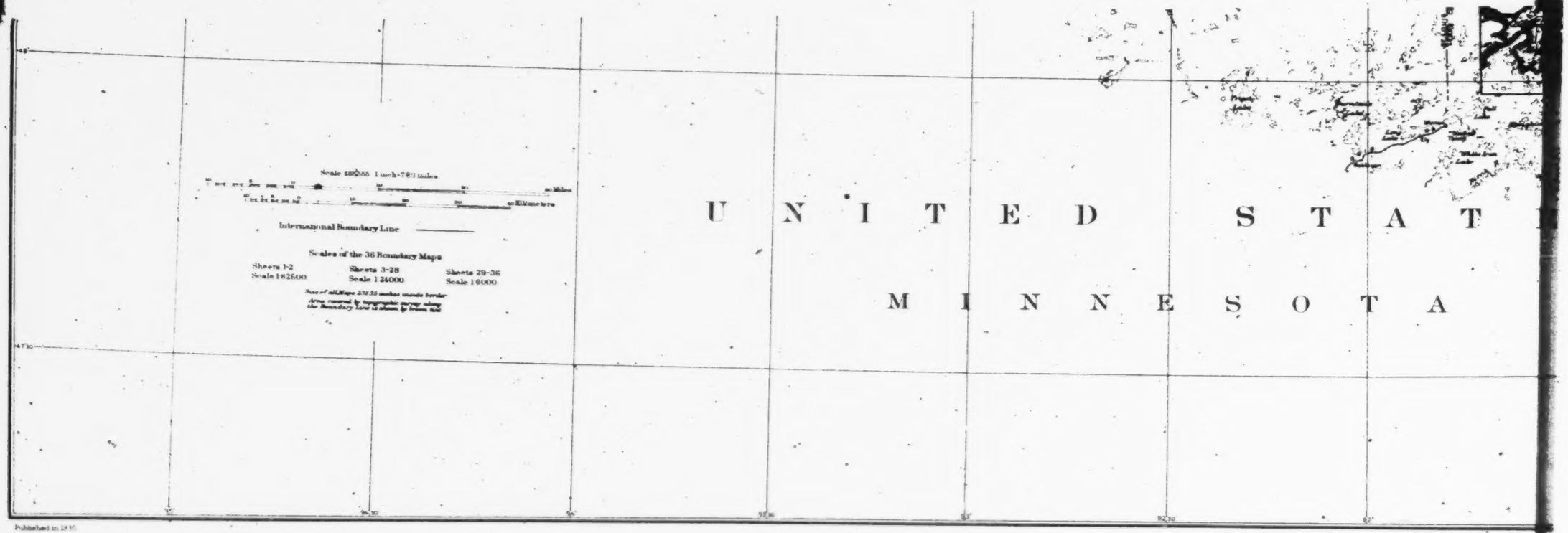
HIS BRITANNIC MAJESTY'S COMMISSIONER
W.F. KING, 1908-1946
J.J. McARTHUR, 1947-1924
J.D. CRAIG, 1925-

EXHIBIT-1

CANADA

ONTARIO




Scale 1:62500 1 inch=7.91 miles
International Boundary Line
Scales of the 36 Boundary Maps
Sheets 1-2
Scale 1:62500
Sheets 3-28
Scale 1:24000
Sheets 29-36
Scale 1:6000
UNITED STATES
MINNESOTA

I T E D S T A T E S
M I N N E S O T A
LAKE SUPERIOR
Grand Marais
22
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24 (Demurrer of Defendant to Amended Complaint.)

The defendant demurs to the amended complaint herein, on the grounds that the facts stated in said amended complaint do not constitute a cause of action.

Wherefore The defendant demands judgment for its costs and disbursements herein.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant, 712-719 Lonsdale Building, Duluth, Minnesota.

Due and personal service of the within Demurrer is hereby admitted this 4th day of May, A. D. 1932,

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff.

Endorsed: Filed May 4, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

---

26 (Order Sustaining Demurrer to Amended Complaint; Judgment.)

(Filed in U. S. District Court on May 7, 1932.)

District Court of the United States, District of Minnesota, Fifth Division.

(Removed From District Court, Eleventh Judicial District, Cook County, Minnesota).

Pigeon River Improvement, Slide & Boom Company, Plaintiff,

vs.

Charles W. Cox, Limited, Defendant.

The above entitled action came on to be heard at the May, A. D. 1932 general term of the above named court on the demurrer of the defendant to the plaintiff's amended complaint herein, said demurrer being upon the ground that said amended complaint does not state facts sufficient to constitute a cause of action. Said demurrer was argued by counsel and thereupon, upon consideration thereof, it was ordered, adjudged and decreed and it is hereby Ordered, Adjudged And Decreed, that said demurrer be and the same hereby is sustained, without leave to plaintiff to further amend said amended complaint, and that judgment be entered accord-

ingly. The plaintiff excepts to the ruling of the Court, and to the order of the Court, and the exception is allowed.

Dated May 4, 1932.

JOSEPH W. MOLYNEAUX,
United States District Judge.

Pursuant to the foregoing, it is Considered And Adjudged: That the above entitled cause be and the same hereby is dismissed and that the plaintiff's exception to the ruling of the court be and the same hereby is allowed.

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28 Assignment of Errors.

Comes now the Plaintiff-Appellant and files the following assignment of errors upon which it will rely in the prosecution of the appeal in this cause:

First—That the Court erred in sustaining Defendant's demurrer to Plaintiff's amended complaint.

Second—That the Court erred in ordering the entry of final judgment in favor of the Defendant.

Third—That the Court erred in rendering judgment dismissing said action upon the merits.

Wherefore, the Appellant prays that the decree herein be reversed by the United States Circuit Court of Appeals for the Eighth Circuit.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff-Appellant, Suite 703 Palladio Bldg., Duluth, Minnesota.

Endorsed: Filed May 7, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

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29 Petition for Appeal.

The Plaintiff-Appellant, feeling itself aggrieved by the judgment of this Court entered on the 4th day of May, A. D. 1932, does hereby appeal from said judgment to the United States Circuit Court of Appeals for the Eighth Circuit, and prays that this appeal be allowed and that a transcript of the proceedings upon which said judgment was made, duly authenticated, be sent to the United States Circuit Court of Appeals for the Eighth Circuit.

Dated May 6, 1932.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff-Appellant, Suite 703 Palladio Bldg., Duluth, Minn.

Order Allowing Appeal.

Upon the foregoing petition of the Plaintiff-Appellant, Pigeon River Improvement, Slide & Boom Company, for an appeal and consideration of the assignment of errors presented therewith, it is

30 Ordered, that the appeal from the judgment herein be allowed as prayed for, and

Further Ordered, that a transcript of the proceedings and judgment herein, duly authenticated, be transmitted to the United States Circuit Court of Appeals for the Eighth Circuit.

Dated May 7, 1932.

JOSEPH W. MOLYNEAUX,
Judge, United States District Court.

Endorsed: Filed May 7, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

31

Bond on Appeal.

Know All Men By These Presents: That Pigeon River Improvement, Slide & Boom Company, the above named appellant, as principal, and American Employers' Insurance Company, a corporation duly organized and existing under and by virtue of the laws of the State of Massachusetts and authorized to execute bonds in the State and District of Minnesota, as surety, are held and firmly bound unto Charles W. Cox, Limited, a corporation, the above named appellee, in the sum of Five Hundred Dollars ($500) lawful money of the United States of America, to the payment of which said principal binds itself, its successors and assigns, and said surety binds itself and its successors and assigns firmly by these presents.

The condition of this obligation is such that whereas on the 4th day of May, 1932, a judgment was entered in the above entitled action dismissing the amended complaint herein and said appellant feeling aggrieved thereby appeals therefrom to the United States Circuit Court of Appeals for the Eighth [District];

Now Therefore, if said appellant, Pigeon River Im-
32 provement, Slide & Boom Company, shall prosecute said appeal to effect and answer all damages and costs awarded against it if it fails to make its plea good, then this obligation to be void, otherwise to remain in full force and effect.

In Testimony Whereof, said principal has caused these presents to be executed by its proper officer and its corporate seal to be hereunto affixed, by authority of its Board of Directors, and said surety has caused these presents to be executed by its Attorney-in-Fact and its corporate seal to be hereunto affixed, by authority of its Board of Directors, this 5th day of May, 1932.

PIGEON RIVER IMPROVEMENT,
SLIDE & BOOM COMPANY,
By D. J. Arpin, President.
(Corporate Seal)

In Presence of:
Aurora Hanson
Ida C. Hammer
As to Principal

AMERICAN EMPLOYERS' INSURANCE COMPANY,
By L. M. McFarlane Its Attorney-in-Fact.
(Corporate Seal)

A. E. Olson
B. M. Andrew
As to Surety

State of Wisconsin,
County of Wood—ss.

On this 5th day of May, 1932, before me appeared D. J. Arpin, to me personally known, who being by me duly sworn, did say that he is the President of Pigeon River Improvement, Slide & Boom Company; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was executed in behalf of said corporation by authority of its Board of Directors, and said D. J. Arpin acknowledged said instrument to be the free act and deed of said corporation.

(Notarial Seal)

IDA C. HAMMER,
Notary Public, Wood Co. Wisconsin.

My Commission expires July 17, 1932.

33 State of Minnesota,
County of St. Louis—ss.

On this 6th day of May, 1932, before me appeared C. F. Liscomb, to me personally known, who being by me duly sworn, did say that he is the Attorney-in-Fact of American Employers' Insurance Company; that the seal affixed to the

foregoing instrument is the corporate seal of said corporation, and that said instrument was executed in behalf of said corporation by authority of its Board of Directors, and said C. F. Liscomb acknowledged said instrument to be the free act and deed of said corporation.

(Notarial Seal)

ALICE E. OLSON,
Notary Public, St. Louis County, Minn.

My Commission expires June 3, 1936.

Order Approving Bond.

The foregoing bond and the surety thereon are hereby approved, this 7th day of May, 1932.

JOSEPH W. MOLYNEAUX,
United States District Judge.

Endorsed: Filed May 7, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

34

Citation.

District Court of the United States, District of Minnesota, Fifth Division.

(Removed From District Court, Eleventh Judicial District, Cook County, Minnesota).

Pigeon River Improvement, Slide & Boom Company, Plaintiff-Appellant,

vs.

Charles W. Cox, Limited, Defendant-Appellee.

To the Above Named Defendant and its Attorneys of Record, Messrs. Fryberger, Fulton & Boyle:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, on the 14th day of June, A. D., 1932, pursuant to an appeal filed in the office of the Clerk of the United States District Court for the District of Minnesota, Fifth Division, wherein Pigeon River Improvement, Slide & Boom Company is Appellant, and you, the said Charles W. Cox, Limited, is Appellee, to show cause, if any there be, why the judgment rendered against the said Pigeon River Improvement, Slide & Boom Company, as in said ap-

peal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Given under my hand at the City of Duluth, in the District and Circuit above mentioned, this 7th day of May, A. D., 1932.

JOSEPH W. MOLYNEAUX,
Judge, United States District Court.

Service of the above Citation acknowledged this May 7, 1932.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant-Appellee.

Endorsed: Filed in U. S. District Court on May 7, 1932.

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37 Stipulation as to Contents of Transcript and Approval Thereof.

It Is Hereby Stipulated And Agreed that the following, to-wit: Amended Complaint, together with Exhibits A to I, inclusive, on file herein and pleaded by reference in said amended complaint; Demurrer; Order Sustaining Demurrer and for Judgment; Judgment; Assignment of Errors; Petition for Allowance of Appeal and Order Allowing Appeal; Appeal Bond and Citation, are all of the files and records herein which are necessary to present the question involved in this cause to the Circuit Court of Appeals, and the Clerk may make a return to the Circuit Court of Appeals containing only copies thereof.

Dated May 6, 1932.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff-Appellant.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant-Appellee.

37a Order.

Upon the foregoing stipulation, and upon all the files, records and proceedings herein, the Court being of the opinion that the papers referred to in said stipulation are all of the files and records herein which are necessary to present the questions involved in this cause to the Circuit Court of Appeals,

It Is Ordered, that the record on appeal shall contain copies of the following papers and no other, to-wit: Amended Complaint, together with Exhibits A to I, inclusive, on file herein and pleaded by reference in said Amended Complaint; Demurrer; Order Sustaining Demurrer and for Judgment; Judgment, Assignment of Errors; Petition for Allowance of Appeal and Order Allowing Appeal; Appeal Bond and Citation.

Dated May 7, 1932.

JOSEPH W. MOLYNEAUX,
Judge, United States District Court.

Endorsed: Filed May 7, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

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38 (Amendment to Stipulation as to Contents of Transcript and Approval Thereof by District Judge.)

It Is Hereby Stipulated And Agreed that the petition for removal and the order for removal of the above case from District Court, Eleventh Judicial District, Cook County, Minnesota, to this Court, together with a recital by the Clerk of this Court that a proper bond for removal has been filed herein, shall be included in the return to the Circuit Court of Appeals herein, and that said papers, together with the additional papers described in the original stipulation herein are all of the files and records herein which are necessary to present the questions involved in this cause to the Circuit Court of Appeals and the Clerk may make a return to the Circuit Court of Appeals containing only copies thereof.

Dated June 8, 1932.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff-Appellant.

FRYBERGER, FULTON & BOYLE,
Attorneys for Defendant-Appellee.

---

39 Order.

Upon the foregoing stipulation and upon all the files, records and proceedings herein, the Court being of the opinion that the papers referred to in said stipulation are files and records herein which are necessary to present the questions involved in this cause to the Circuit Court of Appeals,

It Is Ordered that the record on appeal shall contain copies of the papers described in the order dated May 6, 1932 herein and in addition thereto the petition for removal and order of removal of this cause from the District Court, Eleventh Judicial District, Cook County, Minnesota, to this Court, together with a recital by the Clerk that a proper bond for removal was filed herein, and no others.

Dated June 10, 1932.

JOSEPH W. MOLYNEAUX,
Judge, United States District Court.

Endorsed: Filed June 10, 1932, Joel M. Dickey, Clerk, By Catherine Neff, Deputy.

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41 Election as to Printing of Record.

The plaintiff-appellant hereby elects to have the record on appeal printed by, or under the direction of, the Clerk of the Circuit Court of Appeals.

Dated May 17, 1932.

JENSWOLD, JENSWOLD & DAHLE,
Attorneys for Plaintiff-Appellant,
Suite 703 Palladio Building, Duluth,
Minnesota.

Endorsed: Filed May 17, 1932, Joel M. Dickey, Clerk, By E. Catherine Neff, Deputy.

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42 (Clerk's Certificate to Transcript.)

United States District Court, District of Minnesota,
Fifth Division.

I, Joel M. Dickey, Clerk of said District Court, do hereby certify and return to the Honorable, The United States Circuit Court of Appeals for the Eighth Circuit, that the foregoing consisting of 41 pages, numbered consecutively from 1 to 41 inclusive, is a true and complete transcript of all the records, process, pleadings, orders and final judgment and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said Court and in accordance with the stipulations of the parties for such transcript, copies of which are included within said paging; and I do further certify and return that I have annexed to said transcript and included within said paging the

original citation, together with the admission of service thereof.

Seal
U. S. Dist. Court
Fifth Division
Dist. of Minnesota

In Testimony Whereof, I have hereunto set my hand as the Clerk aforesaid and affixed the seal of said court at Duluth, in the District of Minnesota, this 11th day of June, A. D., 1932.

JOEL M. DICKEY, Clerk.
By E. Catherine Neff, Deputy.

Filed Jun. 18, 1932, E. E. Koch, Clerk.

Appearances of counsel omitted in printing.

Minute entry of argument and submission, Nov. 30, 1932, omitted in printing.

In United States Circuit Court of Appeals, Eighth Circuit, November Term, A. D. 1932

No. 9547

Pigeon River Improvement, Slide & Boom Company, Appellant,

vs.

Charles W. Cox, Limited, Appellee

Appeal from the District Court of the United States for the District of Minnesota

Mr. John D. Jenswold (Messrs. Jenswold, Jenswold & Dahle were with him on the brief) for appellant.

Mr. Edward L. Boyle (Messrs. Fryberger, Fulton & Boyle were with him on the brief) for appellee.

Before Kenyon, Gardner and Sanborn, Circuit Judges

Opinion—Filed Feb. 16, 1933

Kenyon, Circuit Judge, delivered the opinion of the Court:

Appellant is a corporation organized under and authorized by the laws of Minnesota as a slide and boom company to construct dams and sluiceways and other improvements along the channel on the Minnesota side of the Pigeon River. The Pigeon River is, by the terms of the Webster-Ashburton Treaty of 1842, made part of the international boundary line between the United States and Canada. It is a small stream between the northeast corner of Minnesota and the Province of Ontario, and flows a distance of

about thirty miles into Pigeon Bay on Lake Superior. Appellee is a Canadian timber dealer and floats timber cut from Canadian lands down the Arrow River in Canada into the Pigeon River enroute to Lake Superior. In 1928, 1929 and 1930 appellee drove quantities of pulpwood and railway ties down the Pigeon River, and in so doing made use of appellant's improvements, refusing to pay tolls thereon. Appellant brought this action in the State Court for their collection. It was removed to the United States District Court. An amended complaint was filed. Appellee demurred on the ground that the facts stated were not sufficient to constitute a cause of action. The Court sustained the demurrer without leave to amend and entered judgment of dismissal. This appeal followed.

The case involves the construction of that part of Article II of the Webster-Ashburton Treaty of August 9, 1842, 8 U. S. Stat. L. 572, which reads as follows: "That all the water communications and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand portage, from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the citizens and subjects of both countries."

All of appellant's improvements and works with the exception of a certain flooding dam lie in the portion of the river between Fort Charlotte and its mouth.

It is appellant's contention (1) that the Pigeon River from its mouth to Fort Charlotte is not "a water communication" within the meaning of this provision of the treaty, and that it was not "actually used" as such at the time of the treaty or at any time before that, and that therefore the provisions of the treaty do not apply to that part of the river where appellant's improvements are located; (2) that the words "free and open" as used in the treaty do not imply freedom from tolls or charges for the use of improvements in aid of the flotation of logs.

Appellee's claims are: that the Pigeon River from shore to shore was made a boundary water by the Webster-Ashburton Treaty; that it is one of the water communications between Lake Superior and Lake of the Woods referred to in said treaty; that the movement of Canadian wood on the Pigeon River is foreign commerce, over which the State of Minnesota has no control, and that said State has no authority to grant the right to appellant to collect tolls on the

Pigeon River; that such collection is in violation of the Webster-Ashburton Treaty.

This case is a companion one to Clark v. Pigeon River Improvement Slide & Boom Co., (C. C. A. 8), 52 F. (2d) 550, and the essential facts are the same in the two cases. Some of the questions here were also involved in Rainy Lake River Boom Corp. v. Rainy River Lumber Co., Ltd., (C. C. A. 8) 162 F. 287.

In the Clark case we considered that provisions of the Webster-Ashburton Treaty involved here, and went into the matter rather thoroughly, consulting the diplomatic correspondence between the authors of this treaty in order to throw light on the meaning of the terms employed. Our conclusion in the Clark case was against the theory advanced by appellant in this case, and we held that the movement of Canadian pulpwood on the Pigeon River was foreign commerce over which the State of Minnesota could exercise no control, and that the collection of tolls on this river under grant of a franchise by the State of Minnesota would be a violation of the Webster-Ashburton Treaty.

Nothing new is presented here, except possibly some additional correspondence between the parties to the treaty, and this further situation: In our opinion in the Clark case we quoted from the Canadian court in the case of Arrow River and Tributaries Slide and Boom Co., Ltd., 39 Ont. Weekly Notes 434, 66 Ontario Law Reports, 577, where the Canadian court had held that under the Webster-Ashburton Treaty the Pigeon River was to be "free and open" for the nationals of the two contracting parties, and that meant the Slide and Boom Company there had no right to build upon the bed of the Pigeon River anything which would interfere with the enjoyment of free and open use of it by the citizens of the United States, and held against the alleged right to fix any tolls upon the use of the Pigeon River. This case was appealed to the Supreme Court of the Dominion of Canada, and after our decision in the Clark case that court on March 15, 1932, reversed the provincial Supreme Court, and held that the treaty did not forbid the collection of tolls for the use of the Arrow River Company's improvements in the river. So a rather unusual situation is presented and a seeming conflict between our decision and that of the highest Canadian appellate court. Some of the Judges in the Canadian appel-

late court agreed with certain parts of our construction of the treaty, and while the Judges reversed the case they are not at all in harmony as to the meaning of certain of the phrases used in the article in question.

It was frankly conceded in argument that unless this court was willing to reverse its decision in the Clark case appellant was not entitled to a reversel of the judgment of the federal court. In the printed argument of counsel for appellant it is stated that our decision was largely based upon the decision in the Canadian court. That statement is not entirely accurate, as we construed the provisions of Article II of the treaty in question in the way we thought they should be construed in the light of the diplomatic correspondence and the language of the provisions. We cited the decision in the Arrow River and Tributaries Slide and Boom Co., Ltd., case, as in line with our conclusion, but we did not base our decision entirely upon that case. If the question were now an original one we should feel that in view of the conflicting decisions as to the construction of this treaty it would be proper to certify the questions to the Supreme Court for advice, but as we have in the Clark case expressed our opinion as to how these provisions should be construed we would not we think be warranted in asking the advice of the Supreme Court in relation thereto, unless satisfied at least that our former decision was erroneous. We are not so satisfied. In view of the holdings of this Court in the Clark case, supra, and the Rainy Lake River Boom Corp. v. Rainy River Lumber Co., Ltd., supra, the demurrer to the amended complaint in this case was properly sustained and the judgment of the trial court is affirmed.

IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

No. 9547

PIGEON RIVER IMPROVEMENT, SLIDE AND BOOM COMPANY, Appellant,

vs.

CHARLES W. COX, LIMITED

Appeal from the District Court of the United States for the District of Minnesota

JUDGMENT—February 17, 1933

This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of Minnesota, and was argued by counsel.

On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court, in this cause, be, and the same is hereby, affirmed with costs; and that Charles W. Cox, Limited, have and recover against the Pigeon River Improvement, Slide and Boom Company the sum of Twenty Dollars for its costs herein and have execution therefor.

IN UNITED STATES CIRCUIT COURT OF APPEALS

PETITION FOR APPEAL TO SUPREME COURT U. S.—Filed May 12, 1933

To the Honorable the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

Your petitioner, Pigeon River Improvement, Slide & Boom Company, a Minnesota corporation, respectfully shows:

1. That petitioner is the appellant in the above entitled cause.

2. That the appeal in said cause was from a final judgment of dismissal rendered on the 4th day of May, 1932, by the United States District Court for the District of Minnesota, Fifth Division, in an action for the recovery of money only, wherein petitioner was plaintiff and appellee herein, defendant.

3. That on appeal from said judgment to this Court, said judgment was in all respects affirmed, with costs, by

the final judgment of this Court entered herein on February 17, 1933.

4. That the case is one in which, under the legislation in force when the Act of January 31, 1928 was passed, a review could be had in the Supreme Court of the United States on writ of error. That the validity of a statute of the State of Minnesota, to-wit: Chapter 224, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905, is drawn in question in this case and the judgment of the said District Court and the judgment and decision of this Court on appeal therefrom is against the validity of such statute, on the ground of its being repugnant to the Constitution and Treaties of the United States, to-wit: Section 8 of Article 1 of the Constitution of the United States, and Article II of the Webster-Ashburton Treaty of August 22, 1842, 8 United States Statutes at Large 572.

5. That the errors upon which petitioner claims to be entitled to appeal are as set forth in an assignment of errors filed herewith, and petitioner presents and files herewith a separate typewritten statement particularly disclosing the basis upon which petitioner contends that the Supreme Court of the United States has jurisdiction, upon appeal, to review the said judgment and decision. That your petitioner is aggrieved by the said judgment and decision of this Court and therefore prays for the allowance of an appeal therefrom to the Supreme Court of the United States, in order that said decision and judgment may be examined and reversed; that a transcript of the record, proceedings and papers in this cause, duly authenticated by the Clerk of this Court, may be sent to the Supreme Court of the United States, as provided by law; that proper security for costs be fixed and taken and that the required citation to appellee be signed and issued herein.

Dated May 11, 1933.

Pigeon River Improvement, Slide & Boom Company, by John D. Jenswold, Attorney for Petitioner, Appellant, Suite 703 Palladio Building, Duluth, Minnesota. Jenswold, Jenswold & Dahle, of Counsel, Suite 703 Palladio Building, Duluth, Minnesota.

[File endorsement omitted.]

In United States Circuit Court of Appeals

Assignments of Error on Appeal to Supreme Court, U. S.—Filed May 12, 1933

Comes now Pigeon River Improvement, Slide & Boom Company, the appellant above named, and as appellant to the Supreme Court of the United States from the judgment and decision of this Court entered herein on February 17, 1933, assigns as error that this, the Circuit Court of Appeals of the United States for the Eighth Circuit, erred in its said judgment and decision in particulars as follows, to-wit:

1. In refusing to reverse the judgment of the United States District Court for the District of Minnesota, Fifth Division.

2. In holding that Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905, is invalid by reason of its being repugnant to Section 8 of Article I of the Constitution of the United States.

3. In holding that Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905, is invalid, by reason of its being repugnant to Article II of the Webster-Ashburton Treaty of August 22, 1842; 8 United States Statutes at Large 572.

4. In holding that Section 8 of Article I of the Constitution of the United States prevents appellant from collecting reasonable and uniform tolls upon logs and timber driven, sluiced and floated by appellee upon the portion of Pigeon River within the boundaries of the State of Minnesota for the use by appellee in such operation of appellant's works, constructed, repaired, maintained and operated by it within the boundaries of the State of Minnesota in aid of driving logs thereon, pursuant to permission conferred by appellant's charter from the State of Minnesota pursuant to Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905.

5. In holding that Article II of the Webster-Ashburton Treaty of August 22, 1842, 8 United States Statutes at

Large 572, prevents appellant from collecting reasonable and uniform tolls upon logs and timber driven, sluiced and floated by appellee upon the portion of Pigeon River within the boundaries of the State of Minnesota for the use by appellee in such operation of appellant's works constructed, repaired, maintained and operated by it within the boundaries of the State of Minnesota in aid of driving logs thereon pursuant to permission conferred by appellant's charter from the State of Minnesota pursuant to Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905.

6. In refusing to hold that that portion of Article II of the Webster-Ashburton Treaty of August 22, 1842, 8 United States Statutes at Large 572, reading: "That all the water-communications and all the usual portages along the line from Lake Superior to the Lake of the Woods and also Grand Portage, from the Shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the citizens and subjects of both countries," does not apply to the portions of Pigeon River lying between South Fowl Lake and the mouth of Pigeon River where appellant's works in aid of driving logs thereon are situate.

7. In refusing to hold that that portion of Article II of the Webster-Ashburton Treaty of August 22, 1842, 8 United States Statutes at Large 572, reading: "That all the water-communications and all the usual portages along the line from Lake Superior to the Lake of the Woods and also Grand Portage, from the Shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the citizens and subjects of both countries," does not apply to the portions of Pigeon River between Fort Charlotte and the mouth of Pigeon River where appellant's works in aid of driving logs thereon are situate.

8. In holding that the words "free and open," as used in Article II of the Webster-Ashburton Treaty of August 22, 1842, 8 United States Statutes at Large 572, apply to and forbid the collection of reasonable and uniform tolls upon logs and timber driven, sluiced and floated upon Pigeon River for the use by appellee in such operation of works constructed, repaired, maintained and operated by appel-

lant in aid of driving logs in the portion of Pigeon River within the boundaries of the State of Minnesota, under permission conferred by its charter from the State of Minnesota, pursuant to Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905.

9. In holding that the movement by a Canadian citizen of logs and timber on the portion of Pigeon River within the boundaries of the State of Minnesota is foreign commerce within the meaning of Section 8 of Article I of the Constitution of the United States, over which the State of Minnesota cannot exercise control to the extent of chartering appellant, pursuant to Chapter 221, General Laws of Minnesota for the year 1889, as amended by Chapter 89, General Laws of Minnesota for the year 1905, to construct, repair, maintain and operate works in aid of driving logs in the portion of Pigeon River within the boundaries of the State of Minnesota, and to collect reasonable and uniform tolls thereon for the use in such operation of such works.

For which errors the appellant, Pigeon River Improvement, Slide & Boom Company prays that the said judgment and decision of the Circuit Court of Appeals of the United States for the Eighth Circuit, dated February 17, 1933, in the above entitled cause, be reversed, and that appellant be restored to all things that it has lost by reason thereof, with costs to appellant.

Dated May 11, 1933.

John D. Jenswold, Attorney for Appellant, Suite 703 Palladio Building, Duluth, Minnesota. Jenswold, Jenswold & Dahle, of Counsel, Suite 703 Palladio Bldg., Duluth, Minn.

[File endorsement omitted.]

Bond on appeal for $500.00, approved and filed May 12, 1933, omitted in printing.

IN UNITED STATES CIRCUIT COURT OF APPEALS

ORDER ALLOWING APPEAL—Filed May 12, 1933

The appellant in the above entitled suit having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment and decision

made and entered in the above entitled suit in the Circuit Court of Appeals of the United States for the Eighth Circuit on February 17, 1933, and having presented and filed its petition for appeal, assignment of errors, prayer for reversal and statement of the basis upon which it is contended that the Supreme Court of the United States has jurisdiction upon appeal to review said judgment and decision, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided:

It is now here ordered, that an appeal be, and the same is hereby allowed to the Supreme Court of the United States from the Circuit Court of Appeals of the United States for the Eighth Circuit, in the above entitled cause, as provided by law, and it is further ordered, that the Clerk of the Circuit Court of Appeals of the United States for the Eighth Circuit shall prepare and certify a transcript of the record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States, so that he shall have the same in said Court within thirty (30) days of this date.

And it is further ordered, that security for costs on appeal be fixed in the sum of $500.00.

Dated at St. Paul, Minnesota, this 12 day of May, 1933.

Kimbrough Stone, Judge Circuit Court of Appeals of the United States for the Eighth Circuit.

[File endorsement omitted]

IN UNITED STATES CIRCUIT COURT OF APPEALS

PROOF OF SERVICE OF PETITION FOR APPEAL, ETC.—Filed May 18, 1933

STATE OF MINNESOTA,
County of St. Louis, ss:

John D. Jenswold, being duly sworn upon oath, deposes and says that at the City of Duluth, State of Minnesota, in the above Circuit, on May 16, 1933, affiant served upon Edward L. Boyle, the attorney for the appellee herein, the following, to-wit: Petition for appeal to the Supreme Court of the United States; Order allowing said appeal;

Assignments of error; Jurisdictional statement required by Paragraph 1, Rule 12 of the Supreme Court, and Statement directing attention to Paragraph 3 of Rule 12 of the Supreme Court, by then and there handing to and leaving with him true and correct copies thereof.

John D. Jenswold.

Subscribed and sworn to before me this 16th day of May, 1933. My commission expires Jan. 13, 1940. Ruth G. Johnson, Notary Public, St. Louis County, Minn. (Seal.)

Citation, in usual form, showing service on Edward L. Boyle et al., filed May 18, 1933, omitted in printing.

IN UNITED STATES CIRCUIT COURT OF APPEALS

PRÆCIPE FOR TRANSCRIPT OF RECORD—Filed May 19, 1933

The Clerk will please prepare a transcript of a record to be filed in the office of the Clerk of the Supreme Court of the United States, including therein the following:

1. The printed record in the Circuit Court of Appeals.
2. Minute entry showing argument of cause.
3. Opinion of the Court.
4. Judgment or decree.
5. Petition for appeal.
6. Undertaking on appeal.
7. Order allowing appeal.
8. Assignments of error.
9. Jurisdictional statement.
10. Proof of service of petition for appeal, order allowing appeal, assignments of error, jurisdictional statement and statement calling attention to Paragraph 3, Rule 12 of the Supreme Court.
11. Citation and proof of service thereof.
12. Præcipe.
13. Clerk's certificate.

Dated May 17, 1933.

John D. Jenswold, Attorney for Appellant, Suite 703 Palladio Bldg., Duluth, Minn. Jenswold, Jenswold & Dahle, of Counsel, Suite 703 Palladio Bldg., Duluth, Minn.

Due and personal service of the within præcipe is hereby admitted by receipt of copy thereof at Duluth, Minn., this 17th day of May, 1933.

Edward L. Boyle, Attorney for Appellee. Fryberger, Fulton & Boyle, of Counsel for Appellee.

[File endorsement omitted.]

IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

CLERK'S CERTIFICATE

I, E. E. Koch, Clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing contains the transcript of the record from the District Court of the United States for the District of Minnesota as prepared and printed under the rules of the United States Circuit Court of Appeals for the Eighth Circuit, under the supervision of its Clerk, and full, true and complete copies of all the pleadings, record entries and proceedings, including the opinion, had and filed in the United States Circuit Court of Appeals, except the full captions, titles and endorsements omitted in pursuance of the rules of the Supreme Court of the United States in a certain cause in said Circuit Court of Appeals wherein the Pigeon River Improvement, Slide and Boom Company was Appellant and Charles W. Cox, Limited, was Appellee, No. 9547, as full, true and complete as the originals of the same remain on file and of record in my office.

I do further certify that the original citation with acknowledgment of service endorsed thereon is hereto attached and herewith returned.

I do further certify that on the twenty-second day of March, A. D. 1933, a mandate was issued out of said Circuit Court of Appeals in said cause, directed to the Judges of the District Court of the United States for the District of Minnesota.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit at office in the City of St. Louis, Missouri, this twentieth day of May, A. D. 1933.

E. E. Koch, Clerk of the United States Circuit Court of Appeals for the Eighth Circuit. (Seal United States Circuit Court of Appeals, Eighth Circuit.)

SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS AND DESIGNATION OF PRINTED RECORD —Filed June 12, 1933

Now comes the above named appellant, pursuant to paragraph 9 of Rule 13 of the Rules of this Court, and states that the points upon which it intends to rely in this Court in this case are as follows:

I. Appellant has in its amended complaint stated facts sufficient to constitute a cause of action against appellee, based upon rights conferred upon it by statutes of the State of Minnesota.

II. These statutes are not invalid for repugnancy to Article II of the Webster-Ashburton Treaty of August 22, 1842.

III. These statutes are not invalid for repugnancy to Section 8 of Article I of the Constitution of the United States.

IV. The Courts below have, in substance and effect, denied the validity of such statutes of the State of Minnesota.

The appellant further represents that the whole of the record as filed is necessary for the consideration of the case, except the jurisdictional statement, and except that the bond and citation upon this appeal need not be printed in full in the record, but simply noted.

John D. Jenswold, Suite 703 Palladio Building, Duluth, Minnesota, and Bernard R. Goggins, Wisconsin Rapids, Wisconsin, Attorneys for Appellant.

Due and personal service of the within Statement, etc., is hereby admitted, by receipt of copy thereof at Duluth, Minn., this 7th day of June, 1933.

Edward L. Boyle, Attorney for Appellee. Fryberger, Fullon, Boyle, of Counsel for Appellee.

[File endorsement omitted.]

Endorsed on cover: File No. 37,729. U. S. Circuit Court of Appeals, Eighth Circuit. Term No. 126. Pigeon River Improvement, Slide & Boom Company, appellant, vs. Charles W. Cox, Limited. Filed June 5, 1933. File No. 126, O. T. 1933.